

# EXAMINING EMPLOYEE MISCONDUCT AT EPA

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## HEARING

BEFORE THE

### COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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## EXAMINING EMPLOYEE MISCONDUCT AT EPA

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Wednesday, May 18, 2016

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
*Washington, D.C.*

The committee met, pursuant to call, at 9:02 a.m., in Room 2154, Rayburn House Office Building, Hon. Jason Chaffetz [chairman of the committee] presiding.

Present: Representatives Chaffetz, Mica, Duncan, Jordan, Walberg, Amash, Gosar, Massie, Meadows, DeSantis, Mulvaney, Walker, Blum, Hice, Carter, Grothman, Palmer, Cummings, Maloney, Norton, Connolly, Kelly, Lawrence, Watson Coleman, Plaskett, DeSaulnier, Welch, and Lujan Grisham.

Chairman CHAFFETZ. The Committee on Oversight and Government Reform will come to order. Without objection, the chair is authorized to declare a recess at any time.

Today's hearing is entitled "Examining Employee Misconduct at the EPA." It is a topic we have addressed a few times, but it doesn't seem to be getting better. So we will continue to highlight this as long as it takes, because in my opinion, the EPA is one of the most toxic places in the Federal Government to work. If you don't get rid of the toxicity of the employees there at the EPA, we are doing a great disservice to this country.

Most of them are good, hardworking, patriotic people. They care. They work hard. But you have some bad apples at the EPA, and they are not being dealt with, and they are not being addressed.

So I look forward to talking about this. The inspector general has done some good, quality work, he and his team.

Again, we will continue to do this until we are convinced that the EPA has actually taken care of its problem.

Today, the committee is exploring numerous cases of employee misconduct at the EPA. As the Committee on Oversight and Government Reform, in addition to the broad responsibility for conducting oversight of the executive branch, we are also the committee of jurisdiction for Federal employees, and it is our duty to explore the problems in the Federal work force.

We have explored misconduct at the EPA before. Like I said, we will continue to do so until we are convinced there actually has been a change. Most notably, this committee examined the extraordinary case of John Beale. John Beale was a senior EPA employee—reporting to then EPA air office chief Gina McCarthy—who for years falsely claimed to be a CIA spy. Right under her nose, this went on for a long time. This person ended up going to jail, one of the few people who has actually been held accountable, hav-

ing to go to jail, paying hundreds of thousands of dollars in restitution.

But her supervisor got a promotion. She is now the EPA Administrator, and I have serious questions about her ability to actually administrate. When she had a small office, she couldn't do it. And now that she has a large one, these problems continue to persist.

Unfortunately, Mr. Beale's fraud is not isolated. The head of EPA's Office of Homeland Security—this is the head of the EPA's Office of Homeland Security—had a lengthy record of sexual harassment that was not properly investigated.

EPA's Region 5 was mired in allegations of sexual harassment and retaliation against those who tried to do something about it.

Whistleblowers placed blame for Region 5's toxic culture squarely on former Region 5 Administrator Susan Hedman, who resigned under duress in the wake of the Flint water crisis.

Remarking on this situation, an EPA union representative testified, "There is a serious lack of accountability or transparency at EPA when a manager is the problem."

These incidents represent a systemic cultural problem and failure at the EPA. Recently, the EPA Inspector General's Office released details on investigations of more than 60—60—cases of misconduct closed in the last several months. Many of these cases contain disturbing details.

I recognize this is C-SPAN, and it's an early hour, but parents, be forewarned, this is not a subject for young kids at any hour. But nevertheless, we need to expose it in order to solve it.

In one case, a convicted child molester—convicted child molester—was on EPA's payroll for years, even after the EPA learned of this offense. What is so terrible about this situation, it just cannot explain or justify, is the EPA knows that this person is a convicted child molester and yet the EPA put him in a position to interact with the public.

He was out there literally interacting with the public. This person was found to have police sirens placed on their personal vehicle, on their personal car, lights and sirens, handcuffs, a counterfeit badge. It wasn't until a probation violation that it was actually highlighted and dealt with.

In another case, an EPA employee was found to have stolen and pawned thousands of dollars of office equipment yet was not fired. She admitted taking, seven times, equipment in the office, taking it to a pawnshop, putting it in her pocket, and she is not fired.

Mr. Meiburg actually oversaw this person, not directly, but it was in his team.

It is just unbelievable this person was not fired after her felony theft conviction. She is still employed at the EPA to this day.

We have a lot of good, hardworking people who want and need jobs, who will serve this country honorably. Why in the world should somebody convicted of stealing from work, a felony conviction, still enjoy the employment and being paid by the United States taxpayers?

We have pages and pages of similar cases. One has to wonder if the EPA's culture and lack of accountability is a contributing factor to tragedies like the Gold King Mine spill or the Flint drinking water crisis.

The status quo cannot continue, and the committee will continue to investigate the EPA until cultural changes and managers and employees are held accountable for their failures.

People are going to make mistakes. We understand that. These are not mistakes. These are patterns of misbehavior that are unacceptable.

I introduced a piece of legislation, H.R. 4360, which actually passed this committee and passed the House, the Official Personnel File Enhancement Act, which requires a Federal agency to record any adverse findings from resolved investigations into a separated employee's official personnel file.

I hope this helps, so that these employees cannot just toggle from one agency to another without having their information shared with others.

The bill prevents an employee facing disciplinary action from simply jumping ship to another agency that would not be aware of their negative disciplinary record.

We have another case here, where there were devices and air cards that were used excessively. In one case, a person in one trip—I don't know how you do this—but in one trip, spent \$18,000—\$18,000—on one air card traveling, and no restitution, no paying back the government.

We have the devices. We have \$4,500 in personal international calls while on leave. What was the punishment for that? \$4,500, the taxpayers have to pay that. What was the punishment? Counseling. Counseling was the punishment.

So we have a lot to talk about. The inspector general has done a good job on this, and I look forward to a good, fruitful hearing.

With that, we will now recognize the ranking member, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Chairman, I do thank you for holding today's hearing examining employee misconduct at the Environmental Protection Agency. This is the third hearing our committee has held on this topic this Congress, and I am encouraged that the EPA's response to allegations of employee misconduct has vastly improved.

I, like you, want to be effective and efficient. I do not want to constantly hold hearings and hear about these problems. At some point, we should be able to get them resolved.

Serious employee misconduct is, indeed, rare. But as this committee has seen, too often agencies and the inspector general responses to misconduct cases have taken far too long.

At the committee's hearing in April 2015, a little over a year ago, I asked the EPA and the IG to work together to improve their coordination in employee misconduct matters. I did that, again, so we could be effective and efficient, to get things done as opposed to going around in a circle.

I also directed my staff to work directly with the EPA and the IG to help develop new protocols to improve their disciplinary processes.

As a result, the EPA and the IG are coordinating their efforts as they never did before. But as I often say, we can always do better. They are holding biweekly meetings to share information about investigations. We can do even better. They are communicating more

frequently about administrative actions. They are sharing reports of investigations with agency managers and senior officials at the EPA headquarters, but we can always do better.

The EPA and IG have developed expedited procedures for certain cases. The outcomes from improved coordination are, indeed, promising. Both the EPA and the IG have stated that the new procedures have decreased the time it takes for action on reports of employee misconduct.

In his testimony, Mr. Meiburg from the EPA credits the new information-sharing process with contributing to EPA's taking action more quickly after the IG completes an investigation.

Similarly, Mr. Sullivan from the IG's office agrees, and I want to thank you, Mr. Sullivan, for doing such a great job. He concluded—that is, Mr. Sullivan said—and I quote, “Misconduct cases are now being addressed faster and more consistently by the EPA management.” But ladies and gentlemen, we can always do better.

As I said, serious misconduct is rare, but we have to take it seriously. EPA reports that it has only 14 open employee misconduct reports of investigations from the IG. For an EPA work force of some 15,000, that is less than one-tenth of 1 percent, but we can do better.

This committee also has expressed concern about excessive use of administrative leave. That has been a major concern of the committee. In February, the agency issued a new policy on administrative leave. Under the new policy, an EPA employee may not—may not—be placed on administrative leave for more than 10 days without approval from the Assistant Administrator of the Office of Administration and Resources Management. This policy introduces a check that addresses our concern about overuse of administrative leave, and the need for stronger oversight of this type of leave.

Chairman Chaffetz indicated that the hearing today will focus on approximately 20 old cases that have been closed by the IG some years ago. As Mr. Sullivan states in his testimony, and I quote, “It is important to note that most of the misconduct occurred at least 2 years ago.”

In some of these cases, the misconduct is, in fact, egregious, and such behavior requires a swift and appropriate agency response. But none of these cases are currently pending. They are all closed.

I want to be clear. I don't see anything wrong with looking back, because I think sometimes you have to look back so that you can effectively and efficiently move forward. We can learn from things that have happened, so I do not have a problem with that.

According to the EPA and IG, all of these cases preceded the improved coordination process between the EPA and the IG.

I hope that you, Mr. Sullivan, will address the difference you are seeing and the impact. Of course, I am sure you have your recommendations.

Mr. Sullivan states that the new coordination process between the EPA and the IG should serve as, and I quote, “a best-practices model for the Federal Government.” So I am extremely pleased to hear that. It shows what we can do, if we work hard with the agencies and investigators to improve their procedures. This type of work does not always get the big headlines, but it makes a real difference.



It also shows this committee what we can do through nuts-and-bolts oversight.

While I am encouraged by the progress that has been made, I believe that there are still challenges that we must and can and shall address.

For instance, long investigations time in some cases may suggest a need for more resources for the IG. I just don't know.

You will have to address that, Mr. Sullivan.

There are certainly other cases that raise questions about when employees are required to report criminal convictions.

Mr. Chairman, as we proceed, I hope that we can address these challenges together in a truly bipartisan way, like we have done over the past year, with input from the agency and the IG and the other stakeholders, because it is a fact that if we concentrate and try to get the IG and the agencies to work more closely together, I think we can get the kind of results that we are after. Again, we can be more effective and efficient.

With that, Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman.

We will hold the record open for 5 legislative days for any member who would like to submit a written statement.

Chairman CHAFFETZ. We will now recognize our witnesses. I'm pleased to welcome Mr. Stanley Meiburg, who is the Acting Deputy Administrator for the United States Environmental Protection Agency. We also have Mr. Patrick Sullivan, Assistant Inspector General for Investigations at the Office of Inspector General at the United States Environmental Protection Agency. He is accompanied by Mr. Allan Williams, the Deputy Assistant Inspector General for Investigation, whose expertise may be needed for specificity on certain topics during questioning.

We want to thank you all for being here. We are going to go ahead and swear in Mr. Williams as well. Pursuant to committee rules, all witnesses are to be sworn before they testify, so we will also swear in Mr. Williams.

If the three of you would please rise and raise your right hand?

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Thank you.

Let the record reflect that all witnesses answered in the affirmative.

You have testified here before. I think you know the drill. We try to keep your verbal comments to 5 minutes, but we will give you great latitude today. After that, we will go to questions.

So, Mr. Meiburg, you are now recognized for 5 minutes.

## WITNESS STATEMENTS

### STATEMENT OF STANLEY MEIBURG

Mr. MEIBURG. Chairman Chaffetz, Ranking Member Cummings, and members of the committee, thank you for the opportunity to testify today before you about the Environmental Protection Agency's efforts to address employee misconduct.

I am Stan Meiburg, and I have had the privilege of working at the EPA for nearly 40 years, holding positions at our headquarters in Washington, D.C., our regional offices in Atlanta and Dallas, as well as Research Triangle Park in North Carolina. For 18 years, I served as Region Four's Deputy Regional Administrator before retiring in early 2014.

Since returning to the agency in October 2014, I have been honored to serve as Acting Deputy Administrator, discharging the duties of chief operating officer for the agency. Each day, I am reminded of the excellent work EPA employees do on behalf of the American people, from our engineers and scientists in the field to our technical experts and our lawyers here at headquarters.

I am proud to be part of the agency and its mission to protect human health and the environment.

In all workplaces, there are employees who engage in misconduct. Unfortunately, EPA is no exception. When such unfortunate instances occur, we are committed to holding our employees accountable. We have and will continue to work with the powers granted to us by Congress and the administrative tools at our disposal to ensure improper conduct is met with appropriate penalties, and that, conversely, excellence is recognized accordingly.

But I must stress that the isolated misconduct of a few does not reflect and must not overshadow the dedication and hard work of over 15,000 EPA employees who commit themselves every day to the important work of the agency.

Since my appearance before the committee last spring, we have made multiple positive changes to the EPA's management policies and procedures. EPA has taken measures to support our first-line supervisors who carry substantial responsibility in ensuring that misconduct is addressed promptly and appropriately.

We have updated the first-line supervisor's toolkit and organized focus groups to ensure that we understand their needs in an overall effort to ensure that supervisors are able to take fair, legal, and effective disciplinary action for the betterment of the agency as a whole.

In addition, earlier this year, as was noted in the ranking member's comments, the agency revised its policy on administrative leave, addressing a concern that this committee has raised in the past. The agency now demands additional justification and review for administrative leave requests and limits the time period of leave to 10 days, with limited exceptions, such as when an employee poses a danger to the agency and its employees.

Finally, earlier this year, EPA Administrator Gina McCarthy issued an agency-wide elevation memo encouraging staff to raise issues of concern to managers and instructing managers to be receptive to these concerns. It is our hope that this directive, in conjunction with providing training and tools to our employees, will help our first-line supervisors to address misconduct quickly and effectively when issues arise.

In addition to our own work, the EPA's Office of Inspector General plays a critical role in addressing misconduct and helping the agency operate at our best.

As a result of the work of this committee and especially Ranking Member Cummings, we have improved our working relationship

with the Office of Inspector General, which has enabled us to take more efficient administrative action. We now meet biweekly to discuss the status of pending OIG investigations into employee misconduct and have agreed upon procedures and timelines for effective information-sharing. These meetings and the improved bilateral communication contribute to the EPA taking action more quickly upon OIG's completion of its investigations and helps reduce the need for additional fact-finding by the agency in preparing administrative actions.

In closing, EPA and its employees have spent nearly 5 decades working to safeguard public health and the environment for the people of this country. I am proud of what we accomplish every day. On the rare occasions when misconduct occurs, we must address it appropriately.

I look forward to discussing the progress that EPA has made in this regard with you today. Thank you for the opportunity, and I look forward to answering any questions you may have.

[Prepared statement of Mr. Meiburg follows:]

**TESTIMONY OF  
A. STANLEY MEIBURG  
ACTING DEPUTY ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
U.S. HOUSE OF REPRESENTATIVES**

**May 18, 2016**

Chairman Chaffetz, Ranking Member Cummings, and members of the Committee, thank you for this opportunity to testify before you today about the Environmental Protection Agency's efforts to address employee misconduct.

I am Stan Meiburg, and I have had the privilege of working at EPA for nearly 40 years – holding positions at our headquarters in Washington, D.C., our regional offices in Atlanta and Dallas, as well as Research Triangle Park in North Carolina. For 18 years, I served as Region 4's Deputy Regional Administrator before retiring in early 2014.

Since returning in October 2014, I have been honored to serve as Acting Deputy Administrator, discharging the duties of chief operating officer for the agency. Each day, I am reminded of the excellent work EPA employees do on behalf of the American people: from our engineers and scientists in the field to our technical experts and lawyers drafting regulations. I am proud to be a part of this agency and its mission to protect human health and the environment.

In all workplaces, there are employees who engage in misconduct, and, unfortunately, EPA is no exception. When such unfortunate instances occur, we are committed to holding our employees accountable. We have and will continue to work with the powers granted to us by Congress and the administrative tools at our disposal to ensure improper conduct is met with appropriate penalties and, conversely, that excellence is rewarded accordingly. But I must stress: the isolated misconduct of a few does not reflect and must not overshadow the dedication and hard work of over 15,000 EPA employees, who commit themselves every day to the important work of the agency.

Since my appearance before this Committee last spring, we have made multiple positive changes to the EPA's management policies and procedures.

EPA has taken measures to support our first-line supervisors, who carry substantial responsibility in ensuring that misconduct is addressed promptly and appropriately. We have updated the first-line supervisors' toolkit and organized focused groups to ensure that we understand their needs, in an overall effort to ensure that supervisors are able to take fair, legal and effective disciplinary action, for the betterment of the agency as a whole.

In addition, earlier this year, the agency revised its policy on administrative leave, addressing a concern that this Committee has raised in the past. The agency now demands additional justification and review for administrative leave requests and limits the time

period of leave to 10 days, with limited exceptions, such as when an employee poses a danger to the agency and its employees.

Finally, earlier this year, EPA Administrator Gina McCarthy issued an agency wide elevation memo, encouraging staff to raise issues of concern to managers, and instructing managers to be receptive to those concerns. It is our hope that this directive, in conjunction with providing training and tools to our employees, will help our first-line supervisors to address misconduct quickly and effectively when issues arise.

In addition to our own work, the EPA's Office of the Inspector General plays a critical role in addressing misconduct and helping the agency operate at our best. As a result of the work of this Committee, and especially Ranking Member Cummings, we have improved our working relationship with OIG, which has enabled us to take more efficient administrative action. We now meet biweekly to discuss the status of pending OIG investigations into employee misconduct, and have agreed upon procedures and timelines for effective information sharing. These meetings, and the improved bilateral communication, contribute to the EPA taking action more quickly upon OIG's completion of its investigations and help reduce the need for additional fact-finding by the Agency in preparing administrative actions.

In closing, EPA and its employees have spent nearly five decades working to safeguard public health and the environment for the people of this country. I am proud of

what we accomplish every day. On the rare occasions when misconduct occurs, we must address it appropriately. I look forward to discussing the progress that EPA has made in this regard with you today. Thank you for this opportunity, and I look forward to answering any questions that you may have.

Chairman CHAFFETZ. Thank you. I appreciate that.  
Mr. Sullivan, you're now recognized.

#### STATEMENT OF PATRICK SULLIVAN

Mr. SULLIVAN. Good morning, Chairman Chaffetz, Ranking Member Cummings, and members of the committee. I am Patrick Sullivan, Assistant Inspector General for Investigations for both the EPA and the CSB.

I'm happy to report that since I last testified before this committee in April 2015, the agency's internal adjudication process has dramatically improved. At the suggestion of both Chairman Chaffetz and Ranking Member Cummings, the OIG and the agency now meet biweekly about pending misconduct cases and their adjudication. These cases are now being addressed faster and more consistently by EPA management.

I believe that this process can serve as a best-practices model for the Federal Government.

Many allegations lodged against EPA employees are investigated by the OIG, and some are ultimately determined to be unsupported. OIG investigations often clear an individual. Our job is to collect and present the facts in a fair and unbiased manner. We are just as proud of our work in the cases that clear an employee as we are when our work leads to a criminal conviction.

Now I would like to briefly discuss a few significant cases.

In 2014, the OIG Seattle field office special agents interviewed an EPA contractor who had previously worked for EPA for the past 20 years. Stating he was addicted to pornography, he admitted to viewing pornography on his government-issued computer for the last 18 years. In the past year, he watched pornography at least 1 to 2 hours per day.

He avoided detection for many years because he used commercial software to scrub his computer. He also accessed pornographic sites using search engines hosted in a foreign nation.

The contractor was fired by his company. The OIG was successful in recovering \$22,000 in repayments, the amount of time that the contractor viewed pornography. And the OIG made EPA aware of network vulnerabilities that enabled the contractor to avoid detection for 18 years.

In 2013, the OIG was notified by the U.S. Attorney's Office in Connecticut that a special agent assigned to the EPA's Criminal Investigation Division in New Haven may have been engaged in a Ponzi scheme. The special agent's name had surfaced on the prosecution of the ringleaders of a four-level pyramid scheme involving gifting tables. New participants in this scheme would pay a \$5,000 gift to the person occupying the top level.

The OIG investigation determined that the EPA CID special agent had made a false statement on a required financial disclosure form wherein she concealed the fact that she had received \$2,500 in cash from her participation in the scheme.

In 2015, the special agent retired from the EPA. She subsequently pleaded guilty to one felony count of making false statements, and she was sentenced to 1-year probation and ordered to pay \$8,000 in fines and restitution.



In 2013, an OIG Special Agent in the Atlanta field office proactively checked a list of EPA property reportedly lost or stolen through a law-enforcement database. This search resulted in a hit on an EPA digital camera pawned in Decatur, Georgia. The subsequent OIG investigation revealed that, on several occasions, an EPA employ pawned EPA cameras and camcorders at the pawnshop, resulting in a loss to the government of \$3,117.

The U.S. attorney declined Federal prosecution. However, we were successful in presenting the case to a local prosecutor, and the employee pleaded guilty and was sentenced to 3 years of probation and ordered to pay restitution. This was a felony conviction.

The employee's supervisor proposed suspension of the employee for 120 days. Following an appeal by the employee, the Region Four Deputy Administrator downgraded the suspension to 30 days.

In 2006, the OIG Dallas field office was informed that a civilian employee was cited by the Dallas police for improper use of emergency lights on his personal vehicle while also being a registered sex offender. He had previously been convicted in 1997 for indecent acts with a minor. The EPA employee also possessed an imitation badge, which accompanied his CPA administrative credentials, which were displayed by the employee to the police officer.

In 2006, the U.S. attorney declined to prosecute the EPA employee for false impersonation of a Federal officer and for possession of the imitation badges. The EPA then imposed discipline in the form of a 60-day suspension.

In 2013, the Dallas police sex offender unit requested assistance from the OIG in arresting the same EPA employee for violation of probation. He was arrested on a probation violation charge.

The OIG also developed information that the employee may have viewed and possessed child pornography on his EPA computer. However, an examination of his computer revealed no evidence of this.

The employee was terminated from his employment with the EPA. Subsequently, the Merit Systems Protection Board overturned the employee's termination and ordered that he be rehired by the EPA.

In 2015, the employee entered into a settlement agreement in which he agreed to resign from the EPA in exchange for certain considerations.

In closing, I would like to say that we in the OIG pledge that we will continue to work closely with the agency, the Department of Justice, and Congress to ensure that allegations of misconduct are quickly and properly addressed. We appreciate your continued interest in the work of the OIG.

Mr. Chairman, that concludes my prepared statement. I'll be happy to answer any questions. Thank you very much sir.

[Prepared statement of Mr. Sullivan follows:]

**Statement of  
Patrick Sullivan  
Assistant Inspector General for Investigations  
Office of Inspector General  
U.S. Environmental Protection Agency  
Before the  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
May 18, 2016**

Good morning, Chairman Chaffetz, Ranking Member Cummings and members of the committee. I am Patrick Sullivan, Assistant Inspector General for Investigations for both the U.S. Environmental Protection Agency (EPA) and the U.S. Chemical Safety and Hazard Investigation Board (CSB). I am pleased to appear before you today to discuss specific Office of Inspector General (OIG) investigations of employee misconduct issues at the EPA.

**Employee Misconduct at the EPA**

The EPA OIG is charged with conducting investigations and audits related to programs and operations at the EPA and CSB. The OIG remains committed to its statutory role of detecting waste, fraud and abuse, as well as promoting the effectiveness and efficiency of government operations. We operate with a separate budget and decision-making authority, and neither EPA nor CSB senior leaders may prohibit, prevent or obstruct us from conducting our work. Our independence from the agencies over which we have oversight ensures enhanced transparency and accountability in the OIG's investigations of alleged employee misconduct.

This committee specifically has asked about a number of OIG investigative cases that we previously reported on in summary fashion, and has sent the OIG a formal written request to obtain the Reports of Investigation regarding many of those, which we have provided to the committee. My testimony will provide an overview of several cases of EPA employees who viewed and downloaded pornography on government-issued computers, as well as other types of misconduct, some of which resulted in criminal prosecution. It is important to note that most of the alleged misconduct occurred at least 2 years ago.

I am happy to report that since I last testified before this committee to discuss misconduct by EPA employees, in April 2015, the agency's internal adjudication process has dramatically improved. At the suggestion of both Chairman Chaffetz and Ranking Member Cummings, the OIG, the EPA's Office of General Counsel, and the EPA's Office of Administration and Resources Management (which includes a Labor and Employee Relations section) now meet biweekly about pending misconduct cases and their adjudication by the agency. Misconduct cases are now being addressed faster and more consistently by EPA management. This increased efficiency is a result of the coordination and communication between the OIG and the agency to create a streamlined process to address employee misconduct issues. I believe that this process can serve as a "best practices" model for the federal government.

In addition, I note that while many allegations lodged against EPA employees are investigated by the OIG, some are ultimately determined to be unfounded or unsupported. In other words, OIG investigations often clear an individual. Our job is to collect and present the facts in a fair and unbiased manner. We are just as proud of our work in the cases that clear an employee as we are when our work leads to a criminal conviction or the removal of an employee who engaged in serious misconduct.

Now, I would like to summarize two of our more significant misconduct investigations that will be cited in our next Employee Integrity Cases report that will be posted to our website over the next weeks. Then I will highlight seven significant cases from our last three Employee Integrity Cases reports.

#### **OIG Investigation of a Contractor in the EPA's Western Ecology Division**

In May 2014, the OIG Seattle Field Office received a complaint from the EPA's Office of Environmental Information that a government computer assigned to an EPA contractor—who was working in the EPA Western Ecology Division, Office of Research and Development, in Corvallis, Oregon—had logged over 700 denials to blocked pornography, gaming and gambling sites on two occasions.

OIG special agents interviewed the EPA contractor, who stated that he was an information technology specialist who had provided support for the past 20 years. Stating he was “addicted” to pornography, he admitted to viewing pornography on his government-issued computer for the last 18 years. In the past year, he had watched pornography at least one to two hours per day. According to the contractor, he avoided detection for many years because he used commercial software to scrub/wipe his government computer. The contractor accessed pornographic sites using search engines hosted in foreign nations, including one located in Russia. He said that traditional search engines, such as Google and Yahoo, lead to pornographic sites blocked by the EPA.

Shortly after the OIG's interview, the EPA contractor was fired by his company. In addition, the OIG was successful in recovering \$22,088 in repayments to the EPA by the company for the amount of time the contractor had viewed pornography during the prior year. Furthermore, the OIG made the EPA's Office of Environmental Information aware of EPA network vulnerabilities that had enabled the contractor to avoid detection for 18 years.

#### **OIG Investigation of a GS-13 Special Agent in the EPA's Criminal Investigations Division**

In February 2013, the OIG Office of Professional Responsibility was notified by the U.S. Attorney's Office (USAO)—District of Connecticut, that a GS-13 special agent—assigned to the EPA's Criminal Investigations Division (CID) in New Haven, Connecticut—may have been engaged in criminal activity in connection with a Ponzi scheme. The special agent's name had surfaced during the prosecution of the ringleaders of a four-level pyramid scheme involving “gifting tables.” New participants in this scheme would pay a \$5,000 “gift” to the person occupying the top level.

Shortly after the OIG opened its investigation, the USAO–District of Connecticut recused itself from the case because the EPA CID special agent was well known to the local Assistant U.S. Attorneys. The special agent had participated in numerous environmental crimes prosecutions by that office. The U.S. Department of Justice then assigned the case to the USAO–District of Massachusetts.

The OIG investigation determined that the EPA CID special agent had made a false statement on a required Office of Government Ethics financial disclosure form in January 2012, wherein she concealed the fact that she had received \$2,500 cash from her participation in the pyramid scheme.

In January 2015, the special agent retired from the EPA. In March 2015, she pleaded guilty to one felony count of 18 U.S.C. 1001, False Statements. In July 2015, she was sentenced to 1 year of probation and ordered to pay \$7,500 in restitution, as well as a fine of \$500.

**OIG Investigation of a GS-14 Employee in Dallas (Case 5: April 1, 2015, to September 30, 2015)**

In January 2012, the OIG Dallas Field Office received information alleging that a GS-14 program manager in EPA Region 6, Dallas, Texas, who was responsible for managing grants for the Border Environment Cooperation Commission, was using grant money for purposes not related to the grant.

The OIG investigation determined that the EPA program manager misused her position to divert agency grant funds, resulting in several improper payments by Border Environment Cooperation Commission officials totaling \$5,195.

The USAO–Northern District of Texas declined to prosecute the EPA program manager for potential violation of various federal statutes, including 18 U.S.C. 641 (theft of government funds) and 18 U.S.C. 666 (theft or bribery concerning programs receiving federal funds). The USAO declined to prosecute primarily because the program manager did not personally benefit from the diversion of the grant funds.

In July 2014, although termination was proposed in lieu of this, the EPA Region 6 Director of Multimedia Planning and Permitting Division agreed to let the program manager enter into an Abeyance/Last Chance Agreement. The terms of the agreement included the following:

- The effective date of the program manager’s removal from employment would be held in abeyance in return for her compliance with the terms of this agreement.
- Within 2 years of signing this agreement, she would pay back \$5,195 to the federal government based on a process determined by the agency.
- She would be demoted to a position chosen by the agency at the pay rate of GS-12, Step 10.

**OIG Investigation of a GS-13 Employee in EPA's Office of Pollution Prevention and Toxics (Case 17: April 1, 2015, to September 30, 2015)**

In March 2012, the OIG Washington Field Office received a complaint from the EPA's Office of Environmental Information alleging that a GS-13 biologist who worked in the EPA's Office of Pollution Prevention and Toxics downloaded pornographic images to an EPA shared file. During the course of the investigation, the employee admitted that he viewed and downloaded videos, movies and photographs, including those of pornographic nature, onto his EPA-issued computer.

The OIG reviewed the pornographic material on the employee's EPA-issued computer through a forensic examination, and found approximately 500 pornographic images. Additionally, the OIG determined that more than 2,560 videos and 435 music files were accessed and/or downloaded by the employee. The review also discovered sexually explicit videos on the employee's EPA-issued computer.

In 2014, the employee was barred from EPA facilities and placed on paid administrative leave pending a decision on the matter. In March 2015, a notice of proposal for removal for the misuse of government equipment for other than official purpose was provided to the employee. In May 2015, the employee's retirement—after receiving a written notice for the proposal of removal went into effect.

**OIG Investigation of a GS-12 Employee in Atlanta (Case 8: October 1, 2014, to March 31, 2015)**

In October 2013, an OIG special agent in the Atlanta Field Office proactively checked a list of EPA property reportedly lost or stolen from EPA Region 4 in Atlanta through a law enforcement database. This search resulted in a "hit" on an EPA digital camera pawned at a store in Decatur, Georgia, in July 2012. The person who pawned the camera had the same name as an EPA Region 4 employee—a GS-12 public affairs specialist in the Office of External Affairs. The camera was assigned to the Office of External Affairs.

The subsequent OIG investigation revealed that, on seven occasions between July and September 2012, the EPA employee pawned EPA digital cameras and camcorders at the same pawn shop. She failed to reclaim EPA property on five occasions, and the property was then sold by the pawn shop, resulting in a loss to the government of \$3,117. The USAO—Northern District of Georgia declined prosecution for violation of 18 U.S.C. 641 (theft of government property). However, the District Attorney's Office in Fulton County, Georgia, accepted the case for local prosecution.

In January 2014, the EPA Region 4 Director of the Office of External Affairs issued a memorandum that proposed the suspension of the employee for 120 days. Following an appeal by the employee, the Deputy Regional Administrator issued, in May 2014, a memorandum detailing the final decision to suspend the employee for 30 days.

In October 2014, the EPA employee pleaded guilty to theft, in violation of Georgia Code, Title 16, Section 16-8-2, in Superior Court of Fulton County. She was sentenced to 3 years of probation, and ordered to pay restitution in the amount of \$3,117, as well as a fine of \$1,000.

The OIG investigation further revealed that the EPA Region 4 property custodian falsely certified her physical property inventories in fiscal years 2012 and 2013. The property custodian signed and certified that she conducted an inventory of all of the property items assigned to her inventory for that period. It was determined that two of the items allegedly inventoried by the property custodian were previously pawned by the GS-12 public affairs specialist and not returned. Therefore, these items were not physically present within Region 4, and could not have been inventoried. In June 2014, the Director of the Office of External Affairs issued the property custodian a letter of warning in reference to her false certifications of inventories.

**OIG Investigation of a GS-12 Employee in the Office of Administration and Resources Management in Research Triangle Park (Case 9: October 1, 2014 to March 31, 2015)**

In August 2013, the OIG Research Triangle Park (RTP), North Carolina, Field Office was notified that a GS-12 employee, who was working as a Contracting Officer's Representative at the Facilities Support Branch, Office of Administration and Resources Management, in RTP, was suspected of having a financial interest in a company doing business with the EPA.

The OIG's investigation determined that the EPA employee did have a financial interest in a company doing business with the EPA, which is a potential violation of 18 U.S.C. 208 (acts effecting a personal financial interest). The USAO-Middle District of North Carolina declined prosecution and referred the matter back to the EPA for administrative action.

In July 2014, the OIG submitted a Report of Investigation to the Office of Administration and Resources Management senior management official at RTP, in which allegations of misconduct were supported. The OIG's investigation determined that the EPA employee had not reported that she had a financial interest in a company doing business with the EPA. Further, she used EPA computers for conducting personal business. She also provided false information when interviewed by OIG special agents.

In August 2014, EPA rescinded the EPA employee's authority to act as a Contracting Officer's Representative. In September 2014, the employee resigned. At the time of her resignation, the EPA was considering a proposal to remove her from federal service. However, she had not yet been served with termination papers.

**OIG Investigation of a GS-13 Employee in Dallas (Case 17: October 1, 2014, to March 31, 2015)**

In March 2006, the OIG Dallas Field Office was informed that a GS-13 EPA Enforcement Officer was cited by the Dallas Police Department for the improper use of emergency lights on his personal vehicle while also being a registered sex offender. He previously had been convicted, in April 1997, on a deferred adjudication for indecent acts with a minor. (Note: An EPA Enforcement Officer is NOT a federal law enforcement officer (LEO), but rather an administrative enforcement officer. Unlike a federal LEO who carries a gun and badge and is authorized to execute arrest and search warrants, an EPA enforcement officer is not armed and cannot make arrests). The EPA employee also possessed a make-shift badge which accompanied his administrative EPA

Enforcement Officer credentials, which were displayed by the employee to the police officer. This led the police officer to believe that the employee was an EPA law enforcement officer. The EPA employee also used emergency lights affixed to his personal vehicle at an accident scene. The police officer checked the employee's vehicle license plate and determined that he was a registered sex offender.

The subsequent OIG investigation disclosed that the EPA employee had designed and purchased 20 similar badges. He also possessed a bullet-proof vest and installed emergency lights on his personal vehicle, which was a violation of his probation for a sex offender charge. (Note: In March 1999, the same employee had been counseled by EPA Region 6 officials for using emergency lights on his personal vehicle. He was then told to remove all law enforcement equipment from his personal vehicle.)

In April 2006, the USAO–Northern District of Texas declined to prosecute the EPA employee for violation of 18 U.S.C. 912 (false personation) and 18 U.S.C. 701 (counterfeit badges). EPA Region 6 then imposed discipline in the form of a 60-day suspension, and the EPA employee was removed from his position as an EPA Enforcement Officer. He was reassigned to an administrative position within the office.

In August 2013, the Dallas Police Department Sex Offender Unit requested assistance from the OIG in arresting the same EPA employee for violation of probation. He was arrested on the probation violation charge. As a result of this arrest, the OIG developed information that the employee may have viewed and possessed child pornography on his EPA-issued computer. A subsequent OIG forensic examination of his computer revealed no evidence of child pornography or any pornography on his EPA computer.

Following the employee's arrest for probation violation, EPA Region 6 indefinitely suspended him. In January 2014, the employee was terminated from his employment with the EPA.

Subsequently, the Merit Systems Protection Board overturned the employee's termination and ordered that he be re-hired by the EPA. In September 2014, the employee returned to work at the EPA. In January 2015, the employee entered into a Settlement Agreement, which was overseen by Merit Systems Protection Board, in which he agreed to resign from the EPA in exchange for certain considerations.

**OIG Investigation of SES-Level Director in EPA's Office of Administration and Resources Management (Case 3: April 1, 2014 to September 30, 2014)**

In January 2014, while conducting an investigation into an unrelated misconduct case, an OIG special agent in the Washington Field Office discovered that an Senior Executive Service (SES)-level EPA employee, who was the Director of the Office of Administration and Resources Management's Facilities Management and Services Division, incurred \$22,315 in international roaming charges on her EPA-issued mobile device between December 2010 and October 2012. The EPA Director had no authorized international travel on behalf of EPA. The OIG investigation ultimately supported the following charges in which the EPA Director:

1. Improperly used her EPA issued mobile device while overseas on personal travel and incurred over \$22,000 in charges.
2. Made false statements on the SF-86, Questionnaire for National Security Positions when she failed to disclose five trips to Israel and one trip to Germany.
3. Made false statements on the same SF-86 when she failed to disclose that she wired \$90,000 to a foreign national in Jericho, Palestine.
4. Claimed approximately 24 hours of regular work time while on personal travel to Israel, when she should have claimed annual leave.

The USAO–District of Columbia declined to prosecute for violations of 18 U.S.C. 1001 (false statements) and 18 U.S.C. 641 (theft of government funds).

In May 2014, the OIG provided the EPA with a report of investigation; however, shortly thereafter, and prior to the agency taking administrative action, the EPA Director resigned her position. Subsequently, the agency conducted an initial review and was unable to determine what portion of the employee’s charges were due to personal activity versus work activity. In April 2016, the EPA informed the OIG that the matter was being reviewed. The agency is now considering issuing a debt notice to the EPA Director for the charges incurred.

**OIG Investigation of a GS-14 Employee in Kansas City (Case 10: April 1, 2014 to September 30, 2014)**

In August 2010, the EPA Regional Administrator, Region 7, Kansas City, Kansas, made a formal referral to the OIG based upon a complaint filed in the U.S. District Court, District of Nebraska by the Union Pacific Railroad Company. The referral alleged that the EPA violated the Freedom of Information Act and other statutes in connection with the Omaha Lead Superfund Site. It was alleged that the agency destroyed emails and other records.

In 2012, the OIG opened a criminal investigation, in concert with the FBI, after developing preliminary information indicating that a GS-14 EPA environmental engineer assigned to Region 7 destroyed emails concerning the Omaha Lead Superfund Site and encouraged other agency employees to do the same. Because of a potential conflict of interest, the USAO–District of Nebraska recused itself from the criminal investigation. The U.S. Department of Justice assigned the case to the USAO–District of Kansas. Ultimately, the USAO declined to prosecute the EPA employee for violation of 18 U.S.C. 1519 (destruction or alteration of records in federal investigations and bankruptcy) or other statutes due to a lack of provable criminal intent.

In November 2013, the OIG submitted to the Region 7 Regional Administrator a Report of Investigation in which administrative misconduct by the employee was supported. The OIG investigation revealed—through the use of computer forensics, and the results of interviews, affidavits and depositions—that the employee deleted emails and directed and/or instructed other EPA employees to delete emails pertaining to the Omaha Lead Superfund Site.

In May 2014, the OIG was informed that a notice of proposed removal was served on the employee, but the employee retired from federal service before the termination became effective.



### Additional EPA Employee Integrity Cases

The OIG posts to its publicly-accessible Investigations web page reports summarizing the closed EPA employee integrity cases. The following, available in those posted reports, describe a number of additional OIG investigations that were closed within the previous three reporting periods (April 1, 2014, to September 30, 2014; October 1, 2014, to March 31, 2015; and April 1, 2015, to September 30, 2015). The OIG intends to publish its next report on employee integrity cases (October 1, 2015, to March 31, 2016) in late May or early June 2016.

#### List of Selected Closed Employee Integrity Cases: April 1, 2015, to September 30, 2015

**CASE 1:** An SES-level supervisor allegedly engaged in inappropriate behavior, hiring, promotions and management of programs. Also, the supervisor allegedly compromised his ability to be objective in his conduct at work and in his management of senior staff. The supervisor admitted involvement in an inappropriate romantic relationship with a subordinate, GS-15-level, employee. Additionally, evidence showed that the supervisor attempted to influence other EPA employees in an effort to promote the subordinate employee. The supervisor retired from the EPA before a report of investigation could be presented to the agency.

**CASE 6:** Potential conflicts of interest were alleged to have resulted from the appointment of an EPA attorney as Chairman of an environmental quality board. The allegation noted that the employee claimed to speak for or represent the EPA in meetings with the local regulated community, and may have misused the dual positions for private gain. In addition, according to the allegation, the EPA employee may have sponsored and organized a fundraising event, and required board employees to make donations and attend the event for the re-election campaign of a governor. The investigation was unable to substantiate that the employee had used the EPA position for private gain or that the employee had made board employees contribute to a fundraising event. The employee resigned from the EPA during the investigation. This case was presented to the U.S. Office of Special Counsel and the USAO; both declined advancing the matter.

**CASE 9:** An EPA employee allegedly was cited for attempting to bring approximately three grams of marijuana and two marijuana pipes through the security checkpoint at an Internal Revenue Service facility in Denver, Colorado, and arrested on an active warrant for failure to appear. The investigation confirmed that the employee had appeared in the U.S. District Court for the District of Colorado and was found guilty of one count of possession of marijuana on federal property. The employee was sentenced to a 3-day suspended sentence, 12 months' unsupervised probation and 20 hours of community service, and was ordered to pay a \$2,500 fine. The employee was suspended from the EPA for 21 days.

**CASE 10:** An EPA employee allegedly failed to disclose criminal and financial indebtedness when completing form OF-306, *Declaration for Federal Employment*, and form SF-85P, *Questionnaire for Public Trust Positions*. The investigation revealed that, during an employment suitability background investigation of the EPA employee conducted by the Office of Personnel

Management, criminal and financial indebtedness information surfaced that previously had not been divulged on forms OF-306 and SF-85P. The EPA's Personnel Security Branch requested from the employee documentation of the paying down of accumulated debts. The documentation tendered did not appear authentic and was determined to be fraudulent. The employee provided false information to the EPA concerning criminal history and failed to pay accrued personal debts, which included an EPA travel card balance of \$10,226. The EPA presented the employee with a letter of proposed removal; however, the employee retired from the EPA prior to removal.

**CASE 11:** An EPA employee allegedly misused an EPA-issued travel credit card for personal expenses. During an interview, the employee admitted using the EPA-issued travel credit card for personal charges totaling \$625. The employee stated a belief that there was no loss to the government as the expenses were subsequently paid for with cash. The employee had not been candid with supervisors and the OIG when initially questioned about the personal charges. The employee was issued a 14-day suspension.

**CASE 16:** An EPA employee may have violated conflict of interest laws by representing two nonprofit organizations back to the federal government. The investigation did not substantiate the allegation but uncovered evidence of other violations. The employee had misused EPA resources, such as EPA email and an EPA-issued computer, to conduct business on behalf of the two nonprofit organizations. The employee had neglected to disclose involvement with the nonprofit organizations on the *Confidential Financial Disclosure Report* (OGE Form 450). The employee also had allowed biographical information to be posted on one nonprofit organization's website, and the biography gave more prominence to the employee's EPA position than to other details. After this discovery, the biography was removed from the organization's website. Additionally, the employee was acting in a "leader" capacity at the same nonprofit and previously had been a board member there (while concurrently working for the EPA). A report of investigation was presented to the EPA, which later notified the OIG that the employee was suspended for two days.

**List of Selected Closed Employee Integrity Cases: October 1, 2014, to March 31, 2015**

**CASE 5:** An EPA employee was alleged to have potential conflicts of interest and ethical violations. The investigation found that the employee had violated the Code of Federal Regulations and the EPA ethics code by submitting a letter of support to the EPA on EPA letterhead, resulting in a potential unfair competitive advantage to a prospective grant recipient and disqualification of the grantee's proposal from further consideration. The employee was issued a warning letter for assisting the prospective grant recipient with a proposal.

**CASE 13:** An EPA employee allegedly misused the employee's position by allowing two nonprofit organizations to use an EPA-leased trailer and surrounding property to conduct non-EPA related activities without authorization. The investigation supported and the employee admitted to allowing two nonprofit organizations unauthorized use of the trailer, free of charge, for non-project related activities. The employee was suspended for five days.

**CASE 18:** An EPA employee was arrested on felony charges of marijuana possession after local police discovered a marijuana growing operation in her residence. The employee was placed on

paid administrative leave in March 2014, and the employee signed a separation agreement in May 2014. She remained on paid administrative leave until her retirement on October 30, 2014. In as much as there was no violation of federal law, this case was not presented to the USAO.

**List of Selected Closed Employee Integrity Cases: April 1, 2014, to September 30, 2014**

**CASE 8:** An EPA employee allegedly misused an EPA-issued mobile device by placing personal international calls. The investigation disclosed that the employee had incurred more than \$4,500 in international roaming charges when the mobile device was used in a foreign country while the employee was on leave. The employee and all division staff were counseled by management on the appropriate use of EPA-issued mobile devices. The USAO-District of Columbia declined prosecution for violation of 18 USC 641 (theft of government funds).

**CASE 11:** A GS-15-level employee viewed pornographic material on an EPA-issued computer while in duty status. The employee admitted to the allegation, and a forensic analysis of the hard drive substantiated that the employee had watched pornography regularly at work for the past several years. The employee was suspended for 5 working days, is no longer allowed to telework, and is not allowed to attach any unauthorized external drive devices to a government computer.

**CASE 13:** There was an alleged conflict of interest between an EPA employee and a contractor when the employee became involved with an initial contract task order. The investigation substantiated the allegation, but the case was declined for criminal prosecution by the U.S. Attorney's office. The EPA's administrative proposal recommended removal of the employee, but the employee retired before the proposal was finalized.

**CASE 15:** An EPA employee allegedly misused his EPA-issued travel card for services unrelated to government travel and attempted to mislead EPA officials regarding how the travel card had been used. Management initiated removal of the employee; however, the employee resigned prior to being formally served with a notice of proposed removal. The USAO-Northern District of California, declined prosecution for violation of 18 USC 1001 (false statements). There was no dollar loss to the government.

**CASE 16:** An EPA employee and a contractor allegedly exchanged emails containing procurement-sensitive information relative to the EPA's Central Data Exchange support contract valued at \$220 million. The emails allegedly constituted a violation of the Procurement Integrity Act, which prohibits the disclosure of contractor bid or proposal information and source selection information. The investigation confirmed that the employee had engaged in conversation, via email, with the contractor, revealing sensitive procurement information. The email exchange took place during the open procurement period for the contract. The allegation regarding violation of the act was proven. The EPA issued a warning to and counseled the employee concerning improper communications. The employee was relieved of the role of Contracting Officer's Technical Representative and instructed to take interpersonal skills training.

**CASE 17:** An EPA employee allegedly used an office purchase card to pay off a personal debt to a university in the amount of \$1,678. This case was prosecuted by the USAO-District of

Columbia. The employee pleaded guilty to one count of first degree fraud misdemeanor and entered into a deferred sentencing agreement. The conditions of the agreement were for the employee to perform 48 hours of community service and not be rearrested in the next 6 months with any incident where probable cause could be established. No restitution was ordered by the court. The employee resigned following her conviction.

**CASE 18:** An EPA employee allegedly incurred improper international roaming charges on an EPA-issued mobile device. The employee agreed to pay back \$1,725. The employee also was orally reprimanded and counseled on the appropriate use of government-issued equipment and the EPA's international travel policies. The employee's manager indicated that all staff would be made aware of the EPA's policy on government equipment and international travel.

#### **Conclusion**

The OIG takes very seriously its overall responsibility for investigations into allegations of employee misconduct at the EPA. To that end, we will continue to work closely with the agency, U.S. Department of Justice, our law enforcement partners and Congress to ensure that allegations of employee misconduct are quickly and properly addressed. We appreciate your continued interest in the work of the OIG.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions that you, the Ranking Member and the committee members may have.

Chairman CHAFFETZ. Thank you. I will now recognize myself for 5 minutes.

Let's go back to that most recent case with the child molester. Conclude that part about the Merit Systems Protection Board. I mean, based on the brief evidence that you shared with us, the scenario of the case, what were the other considerations that he got in order to resign from the EPA?

Mr. SULLIVAN. He received a cash settlement of \$55,000, I believe. I will have to check —

Chairman CHAFFETZ. The American people paid him \$55,000 to walk away?

Mr. SULLIVAN. Yes. But the IG is not part of those negotiations.

Chairman CHAFFETZ. I'm not blaming you. You are the ones who actually highlighted this.

Mr. Meiburg, it is hard to hold you personally responsible for that, but we had to pay \$55,000 to this person?

Mr. MEIBURG. Mr. Chairman, in this particular case, which I am generally aware of, the case, as Mr. Sullivan noted, was one where we had proposed removal and, in fact, took removal action and were reversed by the Merit Systems Protection Board.

Chairman CHAFFETZ. How do you lose that case?

Mr. MEIBURG. It is a complicated case. I'm not going to try to go into all the details. But the Merit Systems Protection Board found that the basis for the removal was not sustained, so they reversed it.

Chairman CHAFFETZ. I mean, it is just pretty stunning, isn't it? I mean, what needs to change?

You both are close to this situation. What needs to change? How do we need to change the Merit Systems Protection Board?

What is not happening is we are not protecting the American people and the taxpayers, and we are not protecting the employees that have to sit by this freak of a pervert. We are not protecting them.

So how do we protect the employees of the EPA and the American taxpayers? What do we need to do at the Merit Systems Protection Board to get them to make the changes?

Mr. MEIBURG. Congressman, I would simply note a couple things. One is that we share your desire to protect our own employees from any adverse actions by other employees, so that is a clear area where there is agreement.

Chairman CHAFFETZ. And how is it that this person can operate in this atmosphere for so long? In the case of Dallas, how is it—Mr. Sullivan, you have looked at this case closely. How is it that this goes undetected for so long and it wasn't in our system?

Mr. SULLIVAN. It didn't go undetected. It was just that it was not reported to the IG.

In 1999, our investigation revealed that the management in Region Six in Dallas, the EPA management, found out about his conviction. At that time, he was stopped again by the police for using lights and sirens. I don't know about the sirens. I know about the emergency lights. That was brought to the attention of EPA management. He was counseled and told not to do that again, but it was never brought to the attention of the IG in 1999.

Chairman CHAFFETZ. What was his position back in 1999? What was he doing?

Mr. SULLIVAN. He was an enforcement officer doing civil inspections for the EPA.

Chairman CHAFFETZ. So his job would be to do what?

Mr. SULLIVAN. To go out to a site to determine if there are any environmental violations.

Chairman CHAFFETZ. So we are putting him out there, interacting with the public.

Mr. Meiburg, how does this happen? If you know that this person has to register as a sex offender, why do you put them in a position to have to interact with the public?

Mr. MEIBURG. Mr. Chairman, I don't believe there is any particular rule that says that if an employee is convicted of a crime, in general, that they then have to report that to the agency.

Chairman CHAFFETZ. Should that be the case? Should they have to report, ongoing?

Mr. MEIBURG. Mr. Chairman, I think that is an important issue. We are happy to work with you and the Office of Personnel —

Chairman CHAFFETZ. I am just asking your personal opinion. Do you believe, if you are convicted of a felony —

Mr. MEIBURG. Mr. Chairman, again, I am here in my official capacity.

Chairman CHAFFETZ. Okay.

Somebody who is convicted as a sex offender, is there an internal policy to prohibit those types of perverts from interacting with the public in person?

Mr. MEIBURG. Mr. Chairman, we have asked that question, and we do not believe that we have the authority to institute a policy to that effect. We are not different from other agencies in that regard.

But it is an important issue, and we agree with you on that.

Chairman CHAFFETZ. All right, somebody here on this panel better sponsor a bill to get rid of perverts interacting with the public, because this is not acceptable. If somebody comes with the authority of the EPA badge, and then they have sirens or lights on their car, and they are a registered sex offender, I mean, can you see the disconnect, why people would be outraged if they showed up at your place of business or work or some mom with her young child, and suddenly you encounter this person? How do you stand for that?

Mr. MEIBURG. Mr. Chairman, again, certified badge law enforcement officials have special responsibilities, even more so than ordinary EPA employees —

Chairman CHAFFETZ. I cannot believe you lost that case. Part of me thinks we are going to have to work here—let's get the Merit Systems Protection Board up here to start explaining themselves, how in the world they think this is in the best interest of the United States of America.

My time has expired. We will now recognize Ms. Watson Coleman for 5 minutes.

Ms. WATSON COLEMAN. Thank you, Mr. Chairman.

Good morning, gentlemen. Thank you for being here.

A lot of these cases, all the cases that we are discussing, were either resolved in 2014 or 2015, so these are kind of old cases, right? So since then, we have had changes in our policies and practices at the EPA that would at least address allegations of misconduct that come before them in terms of resolving them and as well as administrative leave policies. Is that not correct?

Mr. MEIBURG. Yes, Congresswoman, that is correct. We feel like, in the last year, we have made considerable progress moving forward.

I would agree with the ranking member that we can always do better, but we feel like we have made considerable progress in having better communication with the Office of Inspector General and clearer policies on the use of administrative leave.

Ms. WATSON COLEMAN. Could you explain sort of briefly what specifically has changed that you have informed the rank and file, and the supervisors, and what is the process for holding them accountable, aside from just interacting with the OIG?

Mr. MEIBURG. The interaction—it is in so many ways all of one piece. We discussed with all of our employees the importance of first-line supervisors and their responsibilities in conduct and discipline cases.

We also again, as I mentioned, on the administrative leave, made sure that this cannot be used. And the use of administrative leave has been curtailed for more than 10 days, which was a concern of this committee.

But the interaction involving the inspector general has been tremendously important because we refer cases to the inspector general when we have evidence of misconduct, and ask the inspector general to investigate them. It is very helpful in the course of that investigation to have the interaction we now do, so that we can be clear that when we get information, as quickly as possible, we can move on it.

Ms. WATSON COLEMAN. Thank you.

Mr. Sullivan, are you feeling that this interaction is helping to create a better environment, a more protective environment, and a more accountable environment in the EPA?

Mr. SULLIVAN. Yes.

Ms. WATSON COLEMAN. Once you do an investigation, once something has been referred to you and you do an investigation, in addition to your findings, do you make any recommendations back to the EPA about the employee that has been investigated?

Mr. SULLIVAN. As the head of investigations for the EPA, we do not make recommendations in our investigative reports. However, our auditors and evaluators make recommendations as part of their job. But that is a different part of the IG.

So in a typical misconduct investigation, we report the facts and just the facts, and we would not make a recommendation.

Ms. WATSON COLEMAN. So you would report the facts to the EPA, plus the auditing?

Mr. SULLIVAN. It depends. If we saw a systematic problem or a problem that was crosscutting, for example, in the Beale investigation, we determined that, from the investigator's standpoint, that there were some safeguards that were not being followed. For example, they were batch approving Mr. Beale's T&A, time and at-

tendance, every week, which was a vulnerability. So we reported that to our auditors, and they did an audit.

But normally, in our investigations, ma'am, we just report the facts concerning the specific allegation before us.

Ms. WATSON COLEMAN. Do you feel that we have sufficiently moved in the right direction with the EPA holding people accountable and developing the kind of information-sharing system and accountability system that will mitigate these kinds of cases in the future?

I'm not talking about the one about whether or not the individual who was a convicted sex offender should be hired and if so, under what conditions, but otherwise.

Mr. SULLIVAN. Otherwise, I could tell you that in the past year, as Mr. Meiburg alluded to in his testimony, and in mine, by meeting biweekly, we have streamlined the process and we have broken down some barriers, and we have touched each other as human beings and managers addressing a problem.

Again, I want to make it crystal clear what our role is and the IG Office of Investigations. We just report the facts. We have nothing to do with the ultimate disciplinary process.

Ms. WATSON COLEMAN. I just have one quick question. Both of you can answer quickly, hopefully.

Are there other things that should be happening either the EPA, on your side as a manager of the organization, or from your observation as the IG looking into the organization? Have you discussed those things? Are there things in the works now?

Mr. MEIBURG. Yes, I will cite one thing that we have in the works. We are trying to get additional employee labor relations support to our first-line supervisors and make sure they have good information on cases that may have come up in the past that are similar to ones they might face, because fortunately for most of our first-line supervisors, a conduct and discipline case is a very rare thing. So when one comes up, we want to make sure they have a context for whatever action they may take.

Ms. WATSON COLEMAN. Thank you.

Mr. Sullivan, do you have anything to say to that in 2 seconds?

Mr. SULLIVAN. Yes, ma'am. We do not have enough agents to do the investigations. In the past 5 years, we have gone from 360 FTE authorized to 289. I personally lost 15 to 20 agents that can no longer work cases. So I'm always trying to play catch-up.

Ms. WATSON COLEMAN. I hope you have less cases that you have to investigate. Thank you.

Thank you, Mr. Chairman.

Mr. GOSAR. [Presiding.] I thank the gentlewoman.

The gentleman from Florida, Mr. Mica, is recognized for 5 minutes.

Mr. MICA. Thank you, Mr. Chairman. It is good to hold this hearing and review some of the conduct of some of the employees of the EPA with important responsibility in that agency to carry out.

I had the opportunity to chair civil service on this subcommittee on this panel some years ago. I am a supporter of the civil service system, and it was set up decades and decades ago to protect civil servants, public employees, from abuse, being politically abused, being relieved of their positions.



Isn't that pretty much the case, Mr. Meiburg and Mr. Sullivan?  
Mr. MEIBURG. Yes, Congressman, it is. That is very important that we make sure that the system is not subject to —

Mr. MICA. Not rigged to take hardworking people and cast them out on some political basis. I think that should be protected.

However, the reports we have here, I have 12 pages of some of the most egregious abuses. I can't find any instance in which anyone was fired.

Did you say there were 15,000 EPA employees? Is that correct? More than that?

Mr. MEIBURG. Yes, that is correct.

Mr. MICA. Did you say, Mr. Sullivan, you have 280 investigators?

Mr. SULLIVAN. No, sir. We had a 360 5 years ago. Now we are down to 289.

Mr. MICA. Two hundred eighty-nine staff. What do they do?

Mr. SULLIVAN. We have investigators.

Mr. MICA. So they investigate —

Mr. SULLIVAN. Some auditors and evaluators.

Mr. MICA. They are looking at and reviewing the conduct of the 15,000 EPA employees?

Mr. SULLIVAN. I have 50 agents right now with that —

Mr. MICA. Fifty, okay. Last year, 2015, how many people were fired from EPA?

Mr. SULLIVAN. I would have to defer to Mr. Meiburg.

Mr. MICA. Mr. Meiburg, how many were fired?

Mr. MEIBURG. I don't know.

Mr. SULLIVAN. Were any ever fired for misconduct?

Mr. MEIBURG. Yes.

Mr. MICA. Can you supply—do you think it is more than just my fingers and my toes?

Mr. MEIBURG. Congressman, I want to be clear about my answer.

Mr. MICA. I tell you, nobody here got fired. The only one actually dismissed was a contractor.

What is troubling is some of the offenses. I just heard the deal cut to pay \$55,000 in a settlement.

Is that true, Mr. Sullivan? You said you were not involved in the settlement.

Mr. SULLIVAN. That is correct. From my —

Mr. MICA. Was that the pedophile?

Mr. SULLIVAN. Yes. That was child molester.

Mr. MICA. So we are paying child molesters \$55,000. Nobody gets fired.

Now here's one, an EPA official in Washington, GS-15. GS-15 in D.C., he's getting a minimum of \$125,000 a year.

This guy sat around for years, the past several years, and watched porno, getting \$125,000. Actually, I think he is still on the job. It must be a great job where you can just sit around and collect \$125,000 a year.

Here's a \$90,000 GS-13, at least \$90,000 a year in D.C., a search of the employee's EPA-issued computer found 507 pornographic images as well as a graphic pornographic story written by the employee containing description of—I won't go into all that for public consumption here.

The employee was issued a notice of proposed removal but retired.

So nobody gets fired. The way out is most people retire.

The civil service was not set up to protect these folks. It was to protect folks against political manipulation.

This has to be demoralizing to thousands and thousands of hard-working EPA officials to see these people who either are involved in misconduct, misappropriate—they were stealing money. And I can't find a single instance in which anyone was fired. They mostly retired.

And when they retire, they get a pretty good retirement, don't they? They get their regular retirement. There is no penalty to their compensation when they retire, is there?

Mr. MEIBURG. Congressman, under current law, there is no penalty. People can retire or resign —

Mr. MICA. That is the M.O. You steal. You sit around and watch porno. You get convictions outside. And you either voluntarily resign and go to retirement, but nobody gets fired.

I yield back.

Mr. GOSAR. I thank the gentleman from Florida.

I recognize the gentleman from Maryland, Mr. Cummings, for 5 minutes.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Let me try to understand, Mr. Sullivan. There are 14 open cases. Is that right?

Mr. SULLIVAN. That is not 100 percent accurate, Mr. Cummings. We have 14 cases pending at the agency in which we have already submitted the report of investigation. We have many, many more in the pipeline that we have not yet written a report of investigation, so we have approximately 90 pending misconduct cases right now.

Mr. CUMMINGS. Okay. The reason I asked that is because I said to myself, you talked about the agents that are available to investigate, and I was saying to myself, with 14 cases, I know it takes a lot of manpower—but you have about 90 cases that you are actually involved in?

Mr. SULLIVAN. Yes, Mr. Cummings. But we also have an excess of 150 additional cases, 97 fraud cases, contracting grant fraud, plus we have a number of threat investigations, a number of theft investigations, some assault investigations. So it runs the spectrum.

But for the misconduct, we have currently 90 pending cases, 14 of which have already been presented to the agency and are awaiting adjudication. The other 76 are in various processes of us investigating.

Mr. CUMMINGS. Now when we have a situation where somebody is hired and then commits a serious felony, do they have a duty to report? Now, they are already hired.

What is the situation there? And where do we draw the line there?

Mr. SULLIVAN. Mr. Cummings, it is my understanding that for most EPA employees, there is no requirement to report either an arrest or conviction. Obviously, if you are a law enforcement officer like myself, you must report. If you are an attorney, you must re-

port. If you work for the IG, you must report. Or if you have a security clearance, you must report an arrest or conviction.

But short of that short list, I do not believe there is any requirement for any EPA employee to report either an arrest or conviction.

Mr. CUMMINGS. Do you have an opinion on that? I am just wondering, because I know one of the cases had a situation where somebody was convicted after they were hired, with no duty to report.

It is very interesting because when I practiced law, I saw a lot of cases, not government cases, but others, where people failed to report and they were immediately fired when they found out.

Are there other agencies where the list is longer than that three?

Mr. SULLIVAN. Yes, Mr. Cummings. For myself, I have been a Federal enforcement officer my entire adult life, and I have worked for the FBI and Secret Service and the Federal Air Marshals. In those agencies, you absolutely have to immediately report an arrest and certainly a conviction. Whether you are carrying a gun or you are a civilian employee in those agencies, you have to report.

So I was little bit surprised when I came to EPA and I learned that rank-and-file EPA employees did not have to do that. I've accepted that as the rule, but I was a little curious as to why, just for the sake of knowing—if you put trust and confidence in a particular employee, it may affect your judgment or your decision-making if you knew the person was just convicted of, say, theft or embezzlement in their private life.

Mr. CUMMINGS. Tell me this, we were just talking about a case where somebody received some kind of counseling. When you look at the counseling situation there at EPA, do you think it is helpful? Did you think it is strong enough?

And maybe Mr. Meiburg can answer this. What triggers counseling? In other words, how do I determine whether somebody should have counseling and that be a part of keeping them on?

I know you do not have a lot to do with the final say, Mr. Meiburg.

Mr. MEIBURG. Thank you, Ranking Member.

The short answer is it depends on the case and what the nature of the offense is. If it was an offense that was created out of ignorance or simply the employee did not know what a rule was, then counseling may be appropriate. But each one of those cases has to be evaluated on its own merits based on the facts of the case and the applicable law and regulations.

Mr. CUMMINGS. Mr. Sullivan, time is running out, but Ms. Coleman asked you all about where we go from here.

Tell me clearly, what would you like to see done so that we can be effective and efficient and so that we can basically put you out of a job?

Mr. SULLIVAN. Mr. Cummings —

Mr. CUMMINGS. I am not trying to get rid of you, but you understand what I'm saying.

Mr. SULLIVAN. Thank you, sir. I appreciate that.

I am concerned that when we have an investigation and because I don't have enough special agents to expeditiously investigate allegations, we eventually get to them, but the old saying of "justice delayed is justice denied," I am very concerned that I do not have

enough agents to adequately and immediately address some of these allegations.

That is why I have so many cases in the pipeline. If you do the math, in my Office of Professional Responsibility, which is a special unit I have at headquarters doing essentially GS-15 and SES and political appointees, they average 9.5 cases each. The agents in the field average approximately seven cases each. A lot of those cases in the field are multimillion-dollar fraud investigations that are very involved.

So I simply do not have enough agents to expeditiously investigate every case that I have on my plate.

Mr. CUMMINGS. Will you continue to work with us to try to come up with solutions to the problems? I got the money piece. I agree with you. But you and Mr. Meiburg have been wonderful with regards to sitting down and trying to work out things. Will you continue to do that, sir?

Mr. SULLIVAN. Absolutely. It is beneficial to both my office and to the agency as a whole because we can move things down the field much quicker.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. GOSAR. I thank the gentleman from Maryland.

The gentleman from Georgia, Mr. Hice, is recognized for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman.

Several of the cases of employee misconduct that have been reported from the IG took place in the Region Four, where you, Mr. Meiburg, were the administrator.

One of the cases in particular that is on my mind took place on your watch, referring to a GS-12 employee making over \$100,000 a year who was found to be stealing thousands of dollars of property from the EPA. In fact, the individual pled guilty to felony theft and was placed on 3 years' probation but, astonishingly, only received only 30 days' suspension by the EPA.

Mr. Meiburg, my obvious question is, how in the world can an employee be found guilty and admit to felony criminal charges of stealing from the EPA and not be fired?

Mr. MEIBURG. Congressman, I will speak to that case since, as you note, I was the deciding official.

I want to be clear that there is not a question that what the employee did was wrong. What the employee did was wrong, and she needed to be held accountable for doing something wrong.

When a case comes forward —

Mr. HICE. It was criminal.

Mr. MEIBURG. The criminal conviction, the settlement in the court case, occurred after we took disciplinary action. There are two paths, as you probably know, whereby you can go on this. One is the path of administrative discipline, and the other is potential referral to either the U.S. attorney or to local authorities, which occurred in this case.

At the time we took administrative discipline, the question before us was what was appropriate administrative discipline, given the information we had from the investigation report, which we did.

Mr. HICE. So it is astonishing to me that a 30-day suspension is all that someone gets for even pleading guilty of felony theft.

We have the taxpayers on the hook for this type of behavior. So you were the administrator. Were you involved in the determining the disciplinary action?

Mr. MEIBURG. Yes. I was the deciding official in that case.

Mr. HICE. So in deciding on that case, you are saying that you were not aware of the criminal charges when you made the final decision?

Mr. MEIBURG. I was generally aware that there was a possibility of a proceeding, but I did not know what the outcome of that was.

Mr. HICE. But you were aware of thousands of dollars that had been stolen?

Mr. MEIBURG. I was aware of approximately \$3,000 in camera equipment had been pawned and then lost to the agency through that transaction.

Mr. HICE. And in your determining decision, that was only worth a 30-day suspension?

Mr. MEIBURG. There were many factors. In any individual case, there are many factors that the deciding official uses. They are generally referred to as the Douglas factors. But there are many factors that the deciding official uses in deciding what an appropriate penalty would be. I am obligated by law to consider all of those in reaching a decision on the penalty.

Mr. HICE. It is just amazing to me that the agency doesn't do more to punish people who are stealing from the agency, who even plead guilty to criminal theft, and they still have the right and privileges on the shoulders of taxpayers to continue working for the agency. I just cannot wrap my right mind around this.

This committee has heard time and again of the EPA literally plagued with constant employee misconduct. And yet at the same time, the EPA routinely goes after businesses across this country for much less serious offenses and throws fine after fine after fine to businesses that often are doing virtually nothing in comparison.

I mean, we hear stories of businesses all the time for slight infractions getting serious fines. Yet here we have the EPA in a double standard, having employees involved in criminal behavior, and they just get 30-day suspensions or less. It is an absolute hypocritical double standard.

It is disgusting not only to me to hear these kinds of things, but the American people are fed up with this kind of stuff. They get slapped time and time again with fines because a ladder is in the wrong place or whatever the slight infraction may be. Yet you guys are putting up with this.

The state of affairs at the EPA is totally unacceptable, Mr. Chairman. I just believe that if the EPA wants the trust of the American people and this committee, they have a long way to go to get their house in order.

I yield back. Thank you.

Mr. GOSAR. I thank the gentleman from Georgia.

The gentleman from Georgia, Mr. Carter, is recognized for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman.

Mr. Sullivan, in March 2014, an EPA employee was arrested, jailed, and indicted for marijuana possession. It is my under-

standing that this particular employee had a grow operation and was arrested on felony possession charges.

In fact, I believe you highlighted this in your November 2015 report on the EPA's use of taxpayer dollars for extended administrative leave for employees who had been suspended for misconduct.

According to that report, this employee was placed—Mr. Meiburg, are you listening?

According to that report, this employee was placed on administrative leave for 7.5 months. Is that correct?

Mr. SULLIVAN. Yes, sir, Mr. Carter.

Mr. CARTER. Tell me that is not correct.

Mr. SULLIVAN. No, it is correct, sir.

Mr. CARTER. It is correct?

Mr. SULLIVAN. Yes.

Mr. CARTER. Okay. Again, he was charged with felony possession. He had a grow operation, and he was put on administrative leave and paid for 7.5 months.

Mr. SULLIVAN. Yes, sir.

Mr. CARTER. As I understand it, the EPA policy only allows for 10 days of administrative leave when employees committed a crime for which they could be imprisoned. Is that correct?

Mr. SULLIVAN. That is correct, but that is the new policy, Mr. Carter. I will defer to Mr. Meiburg. The 10-day —

Mr. CARTER. I will get Mr. Meiburg.

Mr. SULLIVAN. It is a new policy.

Mr. CARTER. A new policy implemented after this?

Mr. SULLIVAN. Yes.

Mr. CARTER. Okay, so it didn't apply then?

Mr. SULLIVAN. No. The 10-day limit did not apply then.

Mr. CARTER. So that is why we paid him for 7.5 months.

Mr. SULLIVAN. Well, I cannot explain why. Again, we were —

Mr. CARTER. I'm sure. Even if you could, I could not understand why.

Mr. Meiburg, what would the EPA do this? Explain to me that. Why would you do this?

Mr. MEIBURG. Congressman, I cannot speak to the particulars on this case and what judgments were made on an individual —

Mr. CARTER. Well, who can? We need them here.

Mr. MEIBURG. That would have to be the regional office where this event occurred. I will say —

Mr. CARTER. Who makes these decisions? Do you know who we need here? We need somebody who we can fire. That is who we need here. Who makes this decision? Who made that decision?

Mr. MEIBURG. Decisions on conduct and discipline are taken by proposing officials who usually are the employee's supervisor or their division director in the region. Then a final decision is made usually by a deputy regional administrator, who is a career appointee.

Mr. CARTER. And who do they answer to?

Mr. MEIBURG. The answer to a regional administrator.

Mr. CARTER. I think you said the magic words, "career appointee." I think that was probably the answer to the question. "Career appointee."

Let me ask you, Mr. Meiburg, I've been sitting here listening, and it seems, with all due respect, sir, it seems that you are just matter of fact, "Yes, that's right. And that's the way it's supposed to be."

In the report, the November 2015 report, Mr. Sullivan, did you not indicate that EPA needed to change some of their policies and protocols?

Mr. SULLIVAN. To be correct, that was an audit report, but yes, recommendations were made.

Mr. CARTER. Mr. Meiburg, have you done that?

Mr. MEIBURG. Yes, indeed, we have.

Mr. CARTER. Are they ready?

Mr. MEIBURG. They are being implemented.

Mr. CARTER. They are being implemented. When will they be implemented?

Mr. MEIBURG. No, they are being implemented now.

Mr. CARTER. Now? So they are in place now?

Mr. MEIBURG. Yes. On the policy, to be specific, the policy on administrative leave, to limit administrative leave in any case to 10 days, unless there is approval by the Assistant Administrator for the Office of Administration and Resources Management under very, very —

Mr. CARTER. Okay, I am okay with that, because this is the only time something like this happened. It only happened once, and then we corrected it. Is that right, Mr. Sullivan?

Mr. SULLIVAN. No, there was massive abuse with administrative leave prior to the changing of the rules. Our audit report pointed that out.

Mr. CARTER. Mr. Meiburg, have you ever worked in the private sector?

Mr. MEIBURG. Not for many years. I thought I was going to have that opportunity following May 2014, but it didn't work out that way.

Mr. CARTER. I suspect there is a story there.

Seriously, do you think they would tolerate this in the private sector?

Mr. MEIBURG. I cannot speak to comparability in the private sector. I know in the —

Mr. CARTER. I can because I am in the private sector, or I was. I guess I'm not now. But I was.

But you know, I mean, my colleague just made the point. You go and fine people—we got the answer today as to why they are being fined, because we have to pay people on administrative leave who have been charged with felonies. That is why you are getting fined for that ladder being in the wrong place.

I got the answers I needed today. Thank you, both. That is exactly what I needed to know.

Mr. Chairman, I yield.

Mr. GOSAR. I thank the gentleman from Georgia.

I recognize Ms. Lawrence from Michigan for her 5 minutes.

Ms. LAWRENCE. Thank you.

We have heard discussion today about the new process for information-sharing at EPA and the dramatic improvement in manage-

ment's response to misconduct. I want to applaud the agency and the IG for your work to streamline the disciplinary process.

Our hearings on the Federal work force often focus on, especially in this committee, on the negatives, so it is good to hear about the positive changes that are occurring. Many of the failures that we have been hearing about were prior to the changes, so I do applaud you.

I want to focus on another policy change that took place in EPA regarding administrative leave.

I also want to note that this is the sixth hearing that this committee has held over the past two Congresses on the management of employee misconduct issues at EPA.

Mr. Meiburg, I am saying that right?

Mr. MEIBURG. "Meiburg."

Ms. LAWRENCE. "Meiburg."

I am pleased to hear that the new policy increases oversight over the placement of employees on administrative leave during misconduct investigations and adjudications. The new EPA policy also requires managers to document alternatives to administrative leaves that were considered and why they were deemed not feasible. Is that correct?

Mr. MEIBURG. Yes, that is correct, Congresswoman.

Ms. LAWRENCE. So would you tell me today and enlighten us, what alternatives should managers consider before placing an employee on administrative leave?

Mr. MEIBURG. Managers should consider alternatives about what other kind of work the individual could be doing instead of their regular duties, if it turns out that the investigation will impede their ability to conduct their regular duties. So that would be the first place that you would like, to find work that they can do while the proceeding is occurring.

Ms. LAWRENCE. Do you expect this new policy to reduce the amount of time that employees are placed on administrative leave? Is that the goal?

Mr. MEIBURG. Yes, indeed, it is. We have been very sensitive to the comments from members of this committee about concern about the abuse of administrative leave, and we want to curtail that practice.

Ms. LAWRENCE. Okay, so now this policy has been in place since February. Am I correct?

Mr. MEIBURG. That is correct.

Ms. LAWRENCE. So have you seen any difference? Has there been a reduction?

Mr. MEIBURG. We have seen a pretty dramatic difference. Since the policy was put in place, we have had only two requests that have come forward. The fact that requests are not coming forward by itself is a good sign that the policy is going into place.

Of the two requests that came forward, one was approved because of a risk to the safety of EPA employees and the other was denied.

Ms. LAWRENCE. I often like to interject into these conversations that I served in a Federal agency and was in H.R., labor relations. And you really have the responsibility of looking at how you deal with separating inappropriate behavior, but respecting the rights of



an employee. It is a delicate mix. You have to hold employees accountable.

I can tell you, sitting here today, I want employees held accountable. It is our expectation of our public. But every employee is a citizen of these United States. They have rights. And the agencies should have, and I am glad to hear that you reviewed these processes to make sure they are consistent, that they are not up to the whim of the manager, and that we hold people accountable, basically, who are there to do the work that my tax dollars and every other American expects to happen in this agency.

So I will continue—I hope we do not have to have six more hearings on this. But I will continue to stay focused in looking at what we are doing.

Mr. Meiburg, I expect you to continue to monitor this and be proactive and make sure that EPA, with all the budget cuts that we are doing here, that EPA is doing the work that we need them to do to protect our environment.

Thank you so much.

Mr. MEIBURG. Thank you.

Mr. GOSAR. I thank the gentlelady from Michigan.

I recognize the gentleman from Alabama, Mr. Palmer.

Mr. PALMER. Thank you, Mr. Chairman.

Mr. Meiburg, I think we have pretty well covered some of the problems at the EPA regarding sexual misconduct, but there are other forms of employee misconduct that I want to address, specifically about an investigation that is going on in the Birmingham, Alabama, area involving the EPA, in which EPA employees I think have acted improperly in conducting the investigation, specifically, seeking access to property without getting the permission of the owner and actually intimidating people who are occupying houses on the property.

I have an affidavit here, which one of these people who reside on the property made these allegations: Officials at the U.S. Environmental Protection Agency, EPA, approached me to seek permission to test the property. The EPA officials presented me with a document to sign to allow them to sample the yard. The EPA representative was acting very intimidating and informed me that I needed to sign the release even though I did not own the property, which is a clear violation. I felt very intimidated and compelled to sign the release even though I did not want to do so. Upon signing the release, I asked the EPA official what was so urgent in trying to obtain access to my yard. The EPA officials responded that they are in Tarrant, Alabama, which is a suburb of Birmingham, to shut down the ABC Coke plant.

Does the EPA discipline employees who act in such an overzealous manner?

Mr. MEIBURG. Congressman, anytime we have an allegation of misconduct, we investigate it. If the investigation shows that misconduct has occurred, then we will take action to hold the employee accountable.

Mr. PALMER. So do you punish that or do you encourage it?

Mr. MEIBURG. Again, Congressman, when an allegation occurs of misconduct, we investigate it. As Director Sullivan specified, one of the things that occurs on many investigations is the investigation

does not find any wrongdoing. When it does, we take appropriate follow-up action to hold the employee accountable.

Mr. PALMER. Well, I would like to point out that this is not the only affidavit like this. There are several others. We're not going to release them. We're not going to enter them into the record or use their names at this time.

But do you believe it is appropriate for the EPA personnel to pressure and intimidate citizens into endorsing the EPA's agenda?

Mr. MEIBURG. Congressman, I am not familiar with the specifics that you are referring to. I would be happy to take that back.

Mr. PALMER. The specifics here are the EPA employee forced this renter to give access to property they didn't have legal access to in an intimidating manner. And then afterward told them the whole point of the investigation was to shut down a legal business.

Is that how the EPA does business? Do you encourage your employees to do that? Do you allow them to intimidate? Do you allow them to operate outside the law? Are you aware that this goes on?

Mr. MEIBURG. Congressman, again, I'm not familiar with the specifics of the cases —

Mr. PALMER. I am asking you in general.

Mr. MEIBURG. In general, we ask employees to behave in accordance with good, solid standards of professional conduct.

Mr. PALMER. Well, they don't always.

Do you believe it is appropriate for EPA employees to seek to shut down a legitimate business that employs many people?

Mr. MEIBURG. Again, Congressman, our job is to go out and to enforce the law to make sure that people are protected and the laws are followed. That is what we do.

Mr. PALMER. Let me tell you, I have a number of issues with the EPA, how they do business, how they handle their investigations.

Senator Richard Shelby, Senator Jeff Sessions, and I sent a letter to Administrator McCarthy and Regional Administrator for Region Four Heather McTeer Toney back on February 26 of this year, asking for information about the EPA's investigation of this area and got a letter back saying: With respect to your concerns about the EPA's enforcement approach and/or theories of liability against any PRP associated with the site, unfortunately, the EPA cannot engage in any level of discussions with third parties, including Members of Congress, as articulated in memorandum—and I have the memorandum here.

That seems to me to undermine our oversight ability.

I intend, Mr. Chairman, to look into this further. I would like to enter my letter and the EPA's response into the record, if there are no objections.

Mr. GOSAR. Without objection, so ordered.

Mr. PALMER. I yield the balance of my time. Thank you, Mr. Chairman.

Mr. GOSAR. I thank the gentleman from Alabama.

The gentlewoman from Illinois, Ms. Kelly, is recognized for 5 minutes.

Ms. KELLY. Thank you, Mr. Chair.

Mr. MEIBURG AND Mr. Sullivan, thank you for being here.

Misconduct from a few bad apples gives all the other hard-working Federal employees a bad name. As elected officials, we can relate to that, too.

Our goal is to ensure that agencies act swiftly and fairly in cases like these. This committee has worked with agencies to improve and streamline their internal procedures while preserving employee rights.

Today, we have heard about the new policies and information-sharing processes at EPA and the IG.

Mr. Sullivan, in your testimony, you state that since the committee's hearing on EPA misconduct in April 2015, the agency's internal adjudication process has, and I quote, "dramatically improved." Is that correct?

Mr. SULLIVAN. Yes, Ms. Kelly, that is correct.

Ms. KELLY. Thank you.

Mr. Meiburg, these improvements at EPA have occurred through changes in administrative policy and process, not through legislative change. Is that correct?

Mr. MEIBURG. Yes, Congresswoman. That is correct.

Ms. KELLY. Mr. Meiburg, in your opinion, do managers at your agency have sufficient tools under current law to deal with allegations of misconduct like the ones we heard about today?

Mr. MEIBURG. Congresswoman, I do, in fact, believe that. It is always the case, as Ranking Member Cummings said in his opening statement, that we can always do better, and we strive to do that. But we believe we have the tools we need in the agency to execute effective conduct and discipline.

Ms. KELLY. It is important to remember that due process protections in our Federal civil service laws are there for a reason. In May 2015, the Merit Systems Protection Board issued a report that stated, and I quote, "More than a century ago, the government operated under a spoils system in which employees could be removed for any reason, including membership in a different political party than the President or publicly disclosing agency wrongdoing. The result of such a system was appointment and retention decisions based on political favoritism. Constitutional due process protections arose in the law that Congress enacted to fix that broken system."

Mr. Meiburg, is removing due process from civil service laws necessary to address serious misconduct?

Mr. MEIBURG. Congresswoman, we believe that we can address the serious misconduct through the application of our processes that do, in fact, protect due process.

Ms. KELLY. Mr. Sullivan, do you agree that without a legislative change, it is possible that improvements can be made within agencies that streamline the disciplinary process?

Mr. SULLIVAN. Yes, Ms. Kelly, I agree with that.

Ms. KELLY. Are the changes at EPA an example of such an improvement?

Mr. SULLIVAN. Yes. I can say, from my personal experience, the biweekly meetings have dramatically improved the process.

Ms. KELLY. Thank you.

It seems to me that agencies currently have the tools to deal with allegations of misconduct, but they sometimes do not use them as efficiently and effectively as they could. I think that is ex-

actly when this committee, through its oversight function, can help agencies improve their procedures.

Thank you. I yield back the balance of my time.

Mr. GOSAR. I thank the gentlewoman from Illinois.

I will recognize myself for 5 minutes.

Mr. Sullivan, thank you for the testimony and for the dedicated work of your Office of Inspector General within the EPA. I would like to thank you especially for the work of the OIG in cooperation with this committee to shed light on the misconduct at the EPA and efforts to bring about accountability and reform within that agency.

We recognize your progress while still acknowledging there are still many ongoing challenges within the agency's personnel and management. We know long-term reform and improvements to personnel management requires more than just new procedures and updates to manuals. It requires active support from leadership top to bottom to foster a culture of integrity, accountability, and best practices.

Would you agree, Mr. Sullivan?

Mr. SULLIVAN. Yes, sir, I do.

Mr. GOSAR. Mr. Meiburg, you are currently serving in one of the top leadership posts at the EPA, right?

Mr. MEIBURG. Yes, sir. That's right.

Mr. GOSAR. It seems from our discussion today, you are pretty astute about the law, right?

Mr. MEIBURG. I am not a lawyer and would not make that claim.

Mr. GOSAR. But you have been very articulate about banter from both sides in regards to this claim or that claim. You are pretty articulate about that, right?

Mr. MEIBURG. Thank you. That is not for me to judge.

Mr. GOSAR. Well, I mean, Mr. Hice actually engaged on you because you are the administrator that actually made the decision on that case, so you are pretty familiar with personnel management, right?

Mr. MEIBURG. Yes, over the course of my career, I had a number of conduct and discipline cases come before me, as the deciding official.

Mr. GOSAR. Could you please briefly describe and summarize your job description today?

Mr. MEIBURG. My job description is, I am the agency's chief operating officer, and I perform such duties as are assigned to me by the Administrator.

Mr. GOSAR. Now, let's go through that. You are serving as the Acting EPA Deputy Administrator, and you should understand the law, right?

Mr. MEIBURG. I, again, am serving —

Mr. GOSAR. No, but you should understand the law. I mean, you are predicating this based on understanding the law, and all those underneath you should be following you.

You have also been nominated by the President to serve as the EPA Deputy Administrator. Under the Federal Vacancies Reform Act and recent case law, do you realize you cannot serve in an acting capacity for an office that you have been nominated for?

Mr. MEIBURG. Congressman, I am aware of the legal case that you are referring to and have been assured by counsel that my service is lawful.

Mr. GOSAR. Whoa. Moreover, do you realize that, in such a situation, your actions have no force or effect under the law?

What I am actually talking to you about is you are the CEO. You are applying these laws. So they basically go away.

I would like to have the name of the counsel that gave you that information, because it is in total violation of Federal statute and law. Will you provide that to the committee?

Mr. MEIBURG. Yes, we will be happy to do that.

Mr. GOSAR. Have you ever discussed with anyone at the EPA the fact that, under the Federal Vacancies Reform Act, you cannot serve as the acting deputy director after you have been nominated to serve in the same office? Are you concerned that your actions can and will be challenged, given that they have no force or effect under the law?

Mr. MEIBURG. Congressman, I have been in consultation with our counsel and have been assured that the —

Mr. GOSAR. I would like to have all names of individuals that gave you that, because that is contradictory to Federal law.

Do you believe that you should step down as the Acting EPA Deputy Administrator, given that the law says that your actions have no force or effect?

Mr. MEIBURG. Again, Congressman, I have been consulted with counsel that all of my —

Mr. GOSAR. I want all individuals that gave you that consultations, names and titles.

Your actions in defiance of the law by your agency and this administration baffles me. Moreover, it does not surprise me.

The EPA under this President has a long history of blatant disregard for the law and disrespect for the oversight authority of Congress. Your boss, EPA Administrator Gina McCarthy, committed perjury and made several false statements at multiple congressional hearings trying to defend the fact-defying Waters of the United States regulations.

On numerous occasions, Administrator McCarthy not only broke the law by lying to Congress, but, in doing so, she also lied to the American people in order to force misguided and overreaching regulations that have no scientific basis down our throats.

Perjury before Congress is perjury to the American people and an affront to the core principles of our republic and the rule of law.

You actually sitting here impersonating the CEO and being offered to that office by the President is an affront to that as well.

That is why I have introduced articles of impeachment to remove Administrator McCarthy from office.

But before you get too excited, Mr. Meiburg, thinking that you may get another astronomical promotion in McCarthy's place, I think you should step down as well. You cannot serve as the acting official when you are nominated to fill that post permanently. It is against the law. It is plain and simple.

The personnel management within the EPA is a mess, but that is no surprise when the agency's top officials are willful lawbreakers themselves. You create that culture, and that is why

you were set up accordingly. That is why it is going to be really nice for me, because we have figured a way to make sure that those impeachment proceedings go to the floor and make somebody atone for their actions.

It is actually a mess, and it is sad that we have to bring this, particularly when you should know the rules better.

That goes along with the counsel, so I will expect those names of all those counsel and their titles immediately to this committee for review.

I thank you, and I am disgusted.

I now recognize the gentlewoman from the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Thank you, Mr. Meiburg and Mr. Sullivan, for being here.

To get back to one of the themes of this hearing, I have been interested to hear about the testimony given on improved coordination between EPA and the IG. The reason that interests me is that we obviously want to reduce the time that employees spend on administrative leave when obviously not doing anything for the agency.

So I am interested in the investigative process. I recognize that it takes time. You can't cut corners. You can be sued. And I also understand that some of these investigations can be very complex.

Mr. Sullivan, I am interested in the funding available for the agency to do the job that needs to be done in investigating. Can you tell me what the staffing levels are for the team that investigates misconduct allegations?

Mr. SULLIVAN. Yes, ma'am. I can tell you, in general. The current authorized FTE for the Inspector General's Office as a whole is 289 employees. That has dropped in the last 5 years from 360. In my office, I had an authorized FTE strength of 76 5 years ago. I am now down to 61. Because of the uncertainty in the budget, I haven't been able to hire back up to 61. I now have 55 full-time employees, 50 of which are special agents. The rest are professional support staff or scientists or computer forensic people.

I have five agents assigned to our Office of Professional Responsibility here in Washington, D.C. Those agents work exclusively misconduct investigations on GS-15s, SES, and presidential appointees or political appointees.

In the field, I have another 34 agents that work not only misconduct investigations, they also work most of the grant and contract fraud. The fraud cases are the bread-and-butter of the IG. Most of our criminal investigative work goes into trying to recoup the government's money, people that have stolen money, the grant money, the contract money that EPA has put out.

So to answer your question, ma'am, I have five full-time agents working nothing but misconduct in headquarters and approximately 34 other agents working a combination of fraud cases, theft cases, threat cases, and misconduct cases in the field.

Ms. NORTON. When I hear staffing levels like this, it reminds me of what we are all seeing on television with TSA. I can't believe this is all because everybody has decided to get on a plane.

I think, at some point, Congress has to understand that if you want people to do the job, there have to be a certain number of peo-

ple to do it. TSA is one thing. They have been under great criticism because they have not always been able to keep, according to the GAO, weapons from getting through. That is an interesting case.

This, of course, is another level of complexity. I'm going to have to ask you, candidly, how can these investigators keep from cutting corners with these kinds of staffing levels you described that apparently have changed during your time at the agency?

Mr. SULLIVAN. Ma'am, I see no evidence of any of my agents cutting corners, but what I have testified to previously earlier in the hearing is that I am concerned that cases take way too much time to come to conclusion, because, frankly, it is like the analogy of planes that are circling and when do the planes land? The planes land, using that analogy, when the investigation is complete.

Ms. NORTON. Investigating employee misconduct isn't the only responsibility of the IG.

Mr. SULLIVAN. That is correct, ma'am. We have the fraud cases and threat cases. We have quite a few threat investigations that we have right now. So we are constantly juggling.

And, obviously, we prioritize every day. Almost like an emergency room, you triage. We investigate and handle the most important cases first, but you still have to take care of the other cases that are in the pipeline.

Ms. NORTON. What about the nonemployee misconduct-related investigations that the IG conducts?

Mr. SULLIVAN. Yes. Most of our cases are, in fact, not misconduct. Approximately —

Ms. NORTON. Not employee.

Mr. SULLIVAN. Approximately 60 percent of our cases are a combination of the fraud cases, threat cases, assault cases, or theft. When I say theft, not theft by employees, theft by outsiders, somebody getting into a Federal facility and stealing computers or stealing other equipment.

Ms. NORTON. There is a limit. I think we are beginning to see what the limits are.

I wish you luck with the appropriations process.

Mr. SULLIVAN. Thank you, ma'am.

Mr. GOSAR. I thank the gentlewoman.

I now recognize the gentleman from Michigan, Mr. Walberg, or 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman.

Thanks to the panel.

Mr. Meiburg, this isn't the first time this committee has looked to the EPA for its questionable FOIA practices. That is an issue I would like to address.

EPA has been notorious for having extremely long delays in responding to FOIA requests. In fact, one of our recent witnesses in a previous hearing here, Mark Edwards, a water expert, a professor at Virginia Tech, testified that he waited several years for his FOIA request to be completed. In fact, many of his requests were filled the day after he appeared before this committee on the Flint water issue.

This case, as well as others, I believe very clearly and should diminish the public's confidence in EPA's ability to be open and transparent.

So could you tell us why it takes EPA so long for these FOIA requests to be filled?

Mr. MEIBURG. Congressman, I will just speak very generally to this on a couple matters. One is that we take our FOIA responsibilities very seriously, and we have found in recent years there has been a substantial increase in the number of FOIA requests that we have received.

In responding to that, we tried to put together a FOIA expert assistance team to assist us in searching through documents and making sure we are fully responsive.

Mr. WALBERG. When was that team initiated?

Mr. MEIBURG. That team was initiated within the last year or so.

Mr. WALBERG. Are we seeing improvements on that that you can tell us about?

Mr. MEIBURG. We are working very hard. I don't have any statistics for you today, but we will be glad to get back to you with more information.

Mr. WALBERG. I appreciate that, because I know that you have to get a lot of requests, undoubtedly. When we are dealing with very emotional issues, substantive issues, Waters of the U.S., the Flint water crisis where government failed at all levels and people have been hurt, there certainly are emotional issues dealing with the requests that go on.

But there are reasons why EPA has been brought in front of us on several occasions dealing with FOIA, and I hope that would be addressed.

Going on to purchase cards, that was introduced I believe in the chairman's opening comments, how can EPA keep better track of the purchase cards and usage of those cards by your employees?

Mr. MEIBURG. Congressman, we have made a number of changes in response to interest from the Inspector General's Office and this committee and our own management concern about this to put in place better systems for keeping track of activities that occur on purchase cards and flagging anything that would be suspect. So we feel like we have made considerable progress on this over the last couple years.

Mr. WALBERG. Has there been an audit done relative to the employees to make sure we are not missing things?

Mr. MEIBURG. On the financial audit, we have had a clean audit opinion for the last several years, but we are always continuing to follow up to make sure we have appropriate systems in place to detect any misconduct.

Mr. WALBERG. Then why is it that EPA employees who spend thousands of dollars of EPA taxpayer money on personal expenses can get away with not having to reimburse the agency?

Mr. MEIBURG. Congressman, obviously, we share your concern about that. The cases that are before us today are cases that, as Director Sullivan specified, were over a couple years ago. We feel like we have made progress going forward to identify those cases and address them.

Mr. WALBERG. The particular individual that expended over \$22,000 in international roaming charges while vacationing—and I think we make that clear, while vacationing abroad—will that the employee be required to reimburse the agency?



Mr. MEIBURG. Congressman, I am glad you brought that particular case up, because we are going back and trying to make another effort to recover the costs.

Mr. WALBERG. What is the challenge?

Mr. MEIBURG. The challenge is going to determine which calls—even an employee on vacation may have made work-related contact back to the agency, even while they were on vacation. We need to make sure we can separate those out and make a credible claim.

Mr. WALBERG. Mr. Sullivan, can you add any information to that, relative to that specific individual?

Mr. SULLIVAN. Yes, Mr. Walberg.

The individual actually resigned before we presented our findings to the agency. Then as a follow-up, the agency preliminarily determined it was too difficult to decide, of that \$22,000, how many may have been work-related.

Recently, though, as Mr. Meiburg said, the agency came back to us, I believe in April, last month, and said they are taking a second look at it and trying to present a bill to that former employee.

Mr. WALBERG. I hope a second look would be taken. I applaud that effort and want to see that completed. But in the end, if there is fraudulent or criminal involvement with this employee, I would hope that we could get after them. If not, we would appreciate you telling us how we can assist you in making law in place where we can take employees who are ruining the credibility of other good government employees attempting to do the job the best rate possible, and yet a cloud is put on them because of people who are willing to misuse their purposes and the cards and tools that they have. So help us out with that.

I yield back.

Mr. GOSAR. I thank the gentleman.

I now recognize the gentleman from South Carolina, Mr. Mulvaney.

Mr. MULVANEY. I thank the chairman.

Mr. Meiburg, I want to go back and follow up on a couple questions that were raised during your discussion with Mr. Palmer. He was talking specifically about a circumstance in Alabama, where, to use his language, there was an allegedly overzealous EPA employee. We hear this all the time. It ranges from the terms “overzealous” to “shakedown,” depending on who you’re talking to.

I guess the question that didn’t get asked, because we sort of ran out of time, is this. Has anybody ever been fired for doing that?

Mr. MEIBURG. Congressman, I cannot cite a specific example. I’m going to interpret your question, and I need to know if I am hearing it correctly, been fired for —

Mr. MULVANEY. Overreaching, using their position to intimidate somebody, using their position—enforcing the law is what we hire you folks to do, right? But occasionally, I guess it is possible that a bureaucrat, a government employee, might overreach. They might not like the person they are dealing with. They might not like what they are doing. They might not approve of the business that person is in.

I used to be a real estate developer, and I can assure you that there are a lot of folks who like to hug trees who don’t like what I used to do for a living, so the temptation might be there for an

ordinary human being to sort of use that power that the government gives to them as an employee of the State to say, "You know what? I'm going to push a little harder here. I'm going to stick it to this person."

Do you remember a single circumstance of anybody at the EPA ever being fired for that in your 40 years there?

Mr. MEIBURG. Congressman, first of all, I appreciate your observation that the job of law enforcement is oftentimes not a popular job or designed to make everybody like you.

I am not aware, in my own experience, of a case that is similar to what I am hearing you say is someone who overused or abused their authority and was subsequently terminated solely for that reason. But I will ask the staff to go back and look and see if there such a thing.

Mr. MULVANEY. Mr. Sullivan, if there are allegations of that like in the example Mr. Palmer mentioned, that someone had been overzealous and perhaps exceeded their authority—let's use that term. Maybe that is a little bit more neutral. Would that rise to the level of something the OIG would look at?

Mr. SULLIVAN. It could. But this is the first time I am hearing of it, when Mr. Palmer brought this issue up. It has not been, to my knowledge, referred to the Inspector General's Office as an allegation of misconduct.

Mr. MULVANEY. Got it. Again, I am using his as an example. He knows much more about his example in Alabama than I ever will.

So my question is more general. Have you ever investigated allegations of overreaching authority on the part of an EPA employee?

Mr. SULLIVAN. Yes.

Mr. MULVANEY. Do you recall anybody ever being terminated for that action?

Mr. SULLIVAN. Off the top of my head, I can't recall specifically how the cases were adjudicated, but, for example, we had allegations of people using their position to get a favor, something that is not readily available to an average citizen, those types of instances. We also had instances where people may have used government property for their personal gain, misused a government vehicle, let's say, misused government funds.

Mr. MULVANEY. Okay, there actually was a fairly high profile—at least, it's high-profile to us, because it is in our briefing materials—about an employee in I guess the San Francisco area who lent out a trailer or piece of equipment to an environmentalist group or something like that.

Are you gentlemen familiar with those facts and circumstances?

Mr. SULLIVAN. I am familiar with that case.

Mr. MULVANEY. Again, the person wasn't fired.

Mr. SULLIVAN. He was not fired.

Mr. MULVANEY. Maybe my question is this, in my last minute, give me a couple examples. What does it take to get fired from the EPA? What do you have to do? Do you have to kill somebody, or is it a little short of that?

Mr. MEIBURG. It can be a little short of that.

There are cases where we have done terminations. In my experience, I have done terminations. The kinds of behaviors that are in-

volved are pretty unpleasant and not the kind of things that you would certainly want to ever have an employee engage in.

But when they engage in those kinds of things, on a case-by-case basis, considering employees' due process rights and making sure that, as the deciding official, you have all the facts, the allegation is proven, that you've followed the regulations in the process, that you do, in fact, terminate employees.

Mr. MULVANEY. Help me understand, Mr. Meiburg, and I recognize the fact that we are speaking in generalities, but if you had to sort of estimate, when you're dealing with allegations of impropriety, and they are serious allegations, and you determine them to be valid allegations that actually have some substance to them, what percentage of people quit or retire versus get fired under those circumstances?

Mr. MEIBURG. Congressman, I do not have an exact percentage, but it is not uncommon that people who find themselves faced with a proposed termination will make an election to retire or resign.

Mr. MULVANEY. And if they retire or resign, they get to keep their benefits, right?

Mr. MEIBURG. We have no authority under law —

Mr. MULVANEY. I am not saying that you do. The answer is yes, they do get to keep their benefits.

Mr. MEIBURG. Except in some very limited cases that involve treason or espionage or aiding terrorist groups.

Mr. MULVANEY. So let me close with this, as a manager, which is what you are—you manage people. I used to do it. You do it. You have done it for a long time with EPA. Would it actually make your job easier if we gave you that additional tool to, on a case-by-case basis, or perhaps expand the existing case-by-case basis, to deny people who have been found to have acted improperly, to deny them some or all of their benefits, even if they choose retirement or resignation over termination?

Mr. MEIBURG. Congressman, I think I would answer that simply by saying that I think we have the abilities under our existing administrative tools to appropriately address misconduct and to hold employees accountable. I want to make sure we are using those tools as effectively as we can.

Mr. MULVANEY. But if we gave you this additional tool, it would help you, wouldn't it?

Mr. MEIBURG. That would be speculation, Congressman. I really couldn't say.

Mr. MULVANEY. We do it all the time. Thank you very much, Mr. Meiburg. I appreciate it.

Mr. GOSAR. I thank the gentleman.

I now recognize the gentlewoman from the Virgin Islands, Ms. Plaskett, for 5 minutes.

Ms. PLASKETT. Thank you, Mr. Chairman.

Good morning.

Mr. MEIBURG. Good morning.

Mr. SULLIVAN. Good morning.

Ms. PLASKETT. During last April's hearing on the EPA's management issues, Chairman Chaffetz highlighted what he called, and I quote, "management failures at the EPA." I am not sure if that

characterization is an appropriate one. It appears that we are still in discussion about this today.

But I wanted to discuss what has occurred since last April. It is my understanding the EPA has taken significant steps to address weaknesses in the disciplinary process. I don't think necessarily firing a bunch of people means that you are a good manager. That may be the sign of a poor manager that constantly has to fire people rather than bring them up to speed and make them an appropriate worker.

But, Mr. Meiburg, your testimony described the progress EPA has made. And you state, and I am quoting here, "As a result of the work of this committee, and especially Ranking Member Cummings, we have improved our working relationship with OIG, which has enabled us to take more efficient administrative actions."

Would you care to elaborate on that, sir, on that statement?

Mr. MEIBURG. Only to say, again, that this has been a two-way street, and we feel that we have reached out to the Inspector General's Office, and the Inspector General's Office has reached out to us, in pursuit of a common objective, which is we want to make sure that employees are held accountable, and the misconduct cases are dealt with appropriately, while also making sure that we do that in a way that protects —

Ms. PLASKETT. So how is that different than your relationship previously?

Mr. MEIBURG. I really couldn't say for the agency as a whole from before the time I got here, but I think there has been reaching out on both sides, and it is really commendable.

Ms. PLASKETT. Mr. Sullivan, would you agree with that?

And your statement, I'm going to quote from you, that "the agency's internal adjudication process has dramatically improved." Is that correct?

Mr. SULLIVAN. Yes, Ms. Plaskett. I will explain the difference.

Prior to us having this biweekly meeting, for example, if we had a misconduct investigation in Denver or San Francisco, the folks at headquarters had very little visibility on that, and it may languish for months or years. Whereas now, every misconduct investigation that is pending across the agency, Mr. Meiburg's staff, the attorneys at EPA headquarters, the labor and employee relations folks, meet biweekly. And that case heretofore that may have been languishing in San Francisco or Seattle or wherever is no longer allowed to languish. The folks at EPA headquarters have visibility on it, and they are pushing it along to make sure that those cases are addressed appropriately and expeditiously.

Ms. PLASKETT. And you would say that the cases are moving at a much faster pace to closure than they were previously?

Mr. SULLIVAN. Absolutely. Yes, ma'am.

Ms. PLASKETT. And you have evidence of that, quantitative evidence of that?

Mr. SULLIVAN. Yes. I could tell you that, within the past year, we have successfully closed or the agency has determined what disciplinary action to take, if any, and we have successfully closed our cases out at a much higher rate.

We can't close our case until we hear back from the agency as to what they are going to do.

Ms. PLASKETT. Okay, and have you been satisfied with the recommendations that the agency has made on those cases?

Mr. SULLIVAN. Ma'am, that is something that—our job is to collect facts in a fair and unbiased manner. It is not relevant, in my opinion, whether I think discipline is appropriate or not. I defer completely to the agency in that regard.

Ms. PLASKETT. Got you. You said about the process that you are describing, Mr. Sullivan, and quote, "I believe this process can serve as a best-practices model for the Federal Government." Is that correct?

Mr. SULLIVAN. Yes, ma'am. I spoke to Mr. Cummings' staff and Mr. Chaffetz' staff. They are taking an effort to reach out to the entire IG community using the EPA as a model to educate the rest of the IG community that maybe there is a way to get these cases moved faster governmentwide.

Ms. PLASKETT. I think that would alleviate this committee maybe having to have as many hearings as they have for these other agencies, and we can get on with the actual work of Congress, if we were to do that.

But would you support efforts to encourage then governmentwide adoption of this? And your office would be willing to work with this committee to do that?

Mr. SULLIVAN. We certainly do support that, and we have worked with the committee.

But one caveat, the EPA, we are unique, somewhat unique in that we don't have any subcomponents. There's just one EPA, and there is one IG. If you take DHS or the Department of Justice, they have multiple subcomponents and the model that we have at EPA probably wouldn't work in a department that has multiple subcomponents, just to put that out.

Ms. PLASKETT. And have you thought about what would work in agencies like that?

Mr. SULLIVAN. No, ma'am. I really haven't given that much —

Ms. PLASKETT. We have to get you thinking on this, Mr. Sullivan.

Mr. SULLIVAN. Thank you.

Ms. PLASKETT. So it seems to me that EPA and the OIG have shown that better coordination and communication can help agencies take administrative action more quickly in misconduct cases. And I'm really grateful for the work that you have done since April, from our first hearing, to actually address many of these issues, move these cases along to closure.

I don't believe, having managed many people, working at the Department of Justice, with the Deputy Attorney General's Office managing 9,000 attorneys, that necessarily firing people is the measure by which one determines that you have done a good job, in terms of dealing with misconduct. So I am grateful for the work that you all have done.

I yield the balance of my time.

Mr. GOSAR. I thank the gentlewoman.

A couple housekeeping matters.

Mr. Meiburg, Mr. Mica would like to know for the record, and to have you answer back to the committee, how many employees of the EPA get bonuses.

Mr. MEIBURG. We will supply that.

Mr. GOSAR. We would appreciate it.

I also want to make sure that we have a date certain for the names and titles of the people who gave you the permission. I would expect that in 2 weeks. It can't be very many. I would expect them in 2 weeks. I am a taskmaster, okay?

One last thing, Mr. Sullivan, are you aware of the Federal Vacancies Reform Act?

Mr. SULLIVAN. In general terms, not in specificity.

Mr. GOSAR. Are you aware of anybody that had a plausible conflict that has been made aware of today in this committee with Mr. Meiburg?

Mr. SULLIVAN. No, I'm generally aware of the issue involving Mr. Meiburg, but we were told by the agency that it is not an issue, based on their counsel's opinion.

But we have not investigated that issue, to my knowledge.

Mr. GOSAR. Could we also have the names from the people that you consulted at the EPA that gave you the talking points —

Mr. SULLIVAN. Our counsel office, I know I was briefed that there was an issue, but I will get back to the committee on that through our counsel's office, and I will let you know.

Mr. GOSAR. I guess we have a gentleman here.

Mr. Duncan from Tennessee is recognized for 5 minutes.

Mr. DUNCAN. That is all right, Mr. Chairman. Since I just got here, you can go ahead.

Mr. GOSAR. With that, I would like those names within 2 weeks as well, the counsel that talked to you about that and any other cases in regards to —

Mr. SULLIVAN. I didn't speak directly to anyone from the EPA's counsel. I was just briefed in my office by my counsel's office, I believe, or at a meeting that this issue came up.

According to the agency's general counsel, it is not an issue. That is what I was told.

Mr. GOSAR. Yes, I would like to know from your counsel, the counsel from the EPA that actually instructed that it wasn't a problem.

Mr. SULLIVAN. Yes.

Mr. GOSAR. I mean, you do see the conflict, because according to the Federal Vacancies Reform Act, anything that Mr. Meiburg may be implementing may be null and void, based upon the premise that is actually in place there.

So the culture that we are building here is predicated on the culture that exists at the top levels, because you do lead by example. That is what the problem is in this application.

Mr. SULLIVAN. Yes, sir. I understand the task, and we will get back to you.

Mr. GOSAR. I will acknowledge Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, I'm sorry I was over on the floor and didn't get to hear some of this, but I am curious. I have read some of the material here about some of these employees who have been watching all of this pornography for hours at a time, and then

employees who have admitted stealing thousands of dollars from the EPA.

Have all these employees or have any of these employees been fired?

Mr. MEIBURG. Mr. Congressman, again, of the cases that we looked at here, many of the employees are no longer with agency. There were cases where people were proposed for termination and then resigned.

Mr. DUNCAN. They resigned.

Mr. MEIBURG. Yes.

Mr. DUNCAN. So you do not have any employees now at the EPA who have been found to have stolen money or spent hours watching pornography and so forth? They have either left or resigned?

Mr. MEIBURG. Congressman, there are employees who have resigned or been terminated, and there are employees who have been disciplined in other means than resignation or termination. Some of them are still with agency.

Mr. DUNCAN. Disciplined. In what ways do you discipline somebody like that?

Mr. MEIBURG. Congressman, there is a wide range of disciplinary actions that are available to a deciding official based on a consideration of all the factors, such as how long the employee has been with agency, the severity of the crime, or the severity of the misconduct.

They include all the way from—they can go all the way from reprimands to suspensions for a period of time to a reduction in grade.

Mr. DUNCAN. And I am assuming you have changed some of these policies to make sure that this type of activity doesn't continue in the future?

Mr. MEIBURG. Yes, we've changed a number of policies. I think the staff came up and briefed the committee staff on policies and changes we made, specifically with respect to the viewing of pornography, so, yes.

Mr. DUNCAN. All right, thank you very much.

Mr. GOSAR. I thank the gentleman.

If there is no further business, I thank the witnesses for their appearance here today.

Without any further business, without objection, the committee stands adjourned.

[Whereupon, at 10:47 a.m., the committee was adjourned.]





## **APPENDIX**

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MATERIAL SUBMITTED FOR THE HEARING RECORD

**Congress of the United States**  
Washington, DC 20510

February 26, 2016

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Ms. Heather McTeer Toney  
Regional Administrator, Region 4  
Environmental Protection Agency  
Atlanta Federal Center  
61 Forsyth Avenue, SW  
Atlanta, GA 30303

Dear Madam Administrator and Ms. Toney:

We write to express serious concern regarding the Environmental Protection Agency's (EPA) administration of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as Superfund. In particular, EPA's designation of "potentially responsible parties" (PRPs) through an "air deposition" theory of liability appears to rest on questionable legal authority and may set a troubling precedent for all facilities in the United States which generate air emissions subject to the Clean Air Act and other relevant statutes.

As you are aware, on September 22, 2014, EPA proposed placing the 35th Avenue site in North Birmingham on the National Priorities List. According to the EPA Hazard Ranking System record that accompanied the proposal, "[a]ir is the primary source of deposition within the 35th Avenue site . . . from smokestacks and windblown particles from process fines and other stockpiled material." In conjunction with this air deposition theory, the agency has designated several facilities as PRPs and has informed the facilities that they may be forced to undertake cleanup actions or incur financial liability for costs associated with any cleanup of the site.

We are mindful of EPA's repeated attempts to increase the scope of federal regulatory authority, and we fear the application of the air deposition theory to supposed "arrangers" under CERCLA represents a significant expansion of the agency's Superfund enforcement powers. Arranger liability attaches to any person who disposes of hazardous substances,<sup>1</sup> with "disposal" defined as the "discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any

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<sup>1</sup> 42 U.S.C. § 9607(a)(3).

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constituent thereof may enter the environment or be *emitted into the air* or discharge into any waters.”<sup>2</sup>

A plain reading of this definition demonstrates that, to the extent air emissions may be a factor in determining arranger liability, such emissions must result directly from the discharge of solid or hazardous waste directly into or onto any land or water. In other words, industrial air emissions from lawful sources are to be regulated under the Clean Air Act, not CERCLA. However, EPA seems intent on pressing the air deposition theory in North Birmingham, while having also endorsed the theory in an amicus curiae brief filed recently in the Ninth Circuit Court of Appeals. EPA’s legal positions raise serious questions regarding the agency’s understanding of its statutory authority.

Similar reservations are expressed in the enclosed resolution, adopted jointly by the Alabama House of Representatives and Alabama Senate and approved by the Governor of Alabama on June 9, 2015. The resolution describes the 35th Avenue site proposal and provides that EPA is “attempting to impose a novel and overbroad ‘air deposition’ theory of Superfund liability which would allow EPA to pursue industrial facilities for contamination at non-contiguous properties on the basis of air emissions which are subject to the federal Clean Air Act and authorized by a valid air operating permit.” The resolution notes further that EPA’s “broad air deposition theory would allow EPA to order businesses to clean up hazardous contamination within an indefinite area before proving that the business was actually responsible.” Thus, we are especially concerned with the due process implications associated with this charge.

The resolution also suggests that EPA is pursuing the air deposition theory “as an illicit means for funding policy initiatives which are outside its regulatory authority.” Indeed, the 35th Avenue site proposal appears to be part of an “environmental justice” initiative for EPA to become a *de facto* redevelopment authority in Birmingham.<sup>3</sup> Tellingly, the proposal follows a 2011 planning document in which EPA announced its intent to “go beyond traditional injunctive relief to stop illegal pollution . . . and, where appropriate and agreed to by defendants, to include Supplemental Environmental Projects . . . that provide benefits to communities,” as well as to “leverage benefits resulting from enforcement activities.”<sup>4</sup>

Finally, the resolution describes prior objections to the 35th Avenue site proposal from the Alabama Attorney General and Alabama Department of Environmental Management (ADEM). For example, ADEM repeatedly informed EPA that it did not concur with the proposed listing, as the Attorney General explained in a letter provided

<sup>2</sup> *Id.* § 6903(3) (emphasis added).

<sup>3</sup> See Environmental Protection Agency, Region 4 Superfund, Annual Report, FY 2014 at 5.

<sup>4</sup> Environmental Protection Agency, *Plan EJ 2014: Advancing Environmental Justice Through Compliance and Enforcement* (Sept. 2011).

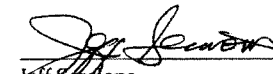
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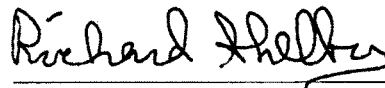
to EPA on January 20, 2015. Under the 1997 "Fields Memorandum," ADEM's decision to withhold concurrence required EPA to work closely with the State of Alabama prior to formally proposing a site for the National Priorities List. Yet the Attorney General's comment letter indicates that EPA neglected to follow the procedure outlined in the Fields Memorandum, suggesting agency disregard for state coordination and input during the site proposal process.

EPA's air deposition theory and corresponding proposal to place the 35th Avenue site on the National Priorities List raise important legal and scientific questions and present substantial risk for businesses that may have little to no responsibility for site contamination. For these reasons, the state Legislature, Governor, and Attorney General for Alabama have each requested EPA to reconsider its position.

We believe these requests are justified, and we urge EPA to give them careful attention. Furthermore, so that we may confirm the agency's appropriate understanding of CERCLA and related legal authorities, we request your staff to schedule a meeting with our offices at the earliest opportunity to discuss the concerns raised above and in the enclosed resolution.

Yours very truly,

  
Jeff Sessions  
United States Senator

  
Richard Shelby  
United States Senator

  
Gary Palmer  
United States Representative

cc: Sen. James M. Inhofe, Chairman, Committee on Environment and Public Works  
Sen. Thad Cochran, Chairman, Committee on Appropriations  
Sen. M. Michael Rounds, Chairman, Subcommittee on Superfund, Waste Management, and Regulatory Oversight, Committee on Environment and Public Works  
Sen. Lisa Murkowski, Chairman, Subcommittee on the Interior, Environment, and Related Agencies, Committee on Appropriations



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR 29 2016

The Honorable Gary Palmer  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Palmer:

Thank you for your February 26, 2016, letter to the U.S. Environmental Protection Agency's Administrator, Gina McCarthy, and myself regarding the 35th Avenue Superfund Site (Site) located in Birmingham, Jefferson County, Alabama. We appreciate your attention to this issue, as well as that of the State of Alabama (State). Based on our reading of your letter, we understand you to be raising three concerns related to the EPA's proposed listing of the Site on the National Priorities Listing (NPL) pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund): (1) the Agency's designation of Potentially Responsible Parties (PRPs) through an "air deposition" theory of liability; (2) the Agency's efforts related to environmental justice; and (3) the Agency's coordination with the State prior to and following proposal of the Site to the NPL.

The EPA believes that it is critical that the State and all of the parties involved understand that the listing of a site on the NPL and enforcement against PRPs under any type of liability theory are separate and distinct activities based on different authorities under Superfund. Superfund liability is not considered when evaluating a site for listing on the NPL, nor is liability established or apportioned based on the decision to propose or finalize a site on the NPL.

With respect to your concerns about the EPA's enforcement approach and/or theories of liability against any PRP associated with the Site, unfortunately the EPA cannot engage in any level of discussions with third parties, including members of Congress, as articulated in the Memorandum from Granta Y. Nakayama, dated March 8, 2006, and titled "Restrictions on Communicating with Outside Parties Regarding Enforcement Actions" <https://www.epa.gov/enforcement/restrictions-communicating-outside-parties-regarding-enforcement-actions>. However, I am able to address the remaining concerns raised in your letter, as well as any additional questions you may have regarding the environmental conditions and the EPA response efforts to date at the Site.

On September 22, 2014, the EPA proposed to include the 35th Avenue Site on the NPL. The identification of sites for listing on the NPL is intended to guide the EPA in: a) determining which sites warrant further investigation to assess the nature and extent of the human health and environmental risks associated with a site; b) identifying what CERCLA-financed remedial actions may be appropriate; c) notifying the public of sites the EPA believes warrant further investigation; and d) serving notice to PRPs that the EPA may initiate CERCLA-financed remedial action. As the D.C. Circuit Court of Appeals has held, the NPL serves primarily as an informational tool for use by the EPA in identifying, quickly and inexpensively, those sites that appear to present a significant risk to public health or the environment. See *CTS Corp. v. EPA*, 759 F.3d 52, 56 (D.C. Cir. 2014); *Carus Chem. Co. v. EPA*, 395 F.3d 434, 441 (D.C. Cir. 2005); *Wash. State Dep't of Transp. v. EPA*, 917 F.2d 1309, 1310 (D.C. Cir. 1990).

In order to determine whether a site may be proposed or added to the NPL, the EPA uses the Hazard Ranking System (HRS). Sites that score greater than 28.50 based on the HRS are eligible for the NPL. The HRS score

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scientifically reflects an assessment of the relative threat to human health and the environment posed by the release or threatened release of hazardous substances at a site. The 35<sup>th</sup> Avenue site's score at the time of proposal to the NPL was 50.00. Consistent with CERCLA, this score relied solely on the Site's soil exposure pathway, due to widespread soil contamination in the residential neighborhoods of Fairmont, Collegeville and Harriman Park. This was based on results of sampling events conducted in 2013 and 2014 in these neighborhoods that revealed elevated concentrations of lead, arsenic and Benzo (a) pyrene. Environmental justice concerns are not a part of a site's HRS score or used to qualify a site for NPL listing.

In the HRS supporting materials the EPA identified several facilities as the possible sources of contamination detected in residential soil due to their proximity to the Area of Contamination (AOC), the type of plant, the processes utilized at the plant, and the history of releases contributing to the commingled contamination of the AOC over the period of many years. Identification of potential sources of contamination is a typical part of HRS supporting materials. This does not, however, establish liability. Liability is established at a site through a separate process using different CERCLA authorities. While the Agency's investigation is still underway, the presence of contaminants in the residential neighborhoods is potentially due to a number of routes, including use of solid waste as fill material, storm water runoff from facilities, continued migration of contaminants from frequent flooding in the area, and facility air emissions. These emissions occurred prior to, in absence of or in exceedance of Clean Air Act permits.

A public comment period on the proposed NPL listing was held from September 22, 2014 to January 22, 2015. The EPA received numerous public comments both in support and in opposition to a final listing, including letters from the Alabama Department of Environmental Management (ADEM) and the Alabama Attorney General. In those letters, the State requested review of the EPA's decision through the dispute resolution process outlined in the July 25, 1997 OSWER memorandum titled, "Coordinating with the States on National Priorities List Decisions - Issue Resolution Process." Prior to making a final listing decision, the EPA must consider all comments received on a proposed NPL site and respond to significant comments in writing. After consideration of all comments, if the Site still qualifies for listing on the NPL, the EPA will welcome informal deliberations with ADEM. Depending on the outcome of those deliberations, as appropriate, the EPA will follow the process outlined in the above "Issue Resolution Process" memorandum. The EPA is committed to consultations with the State prior to making any future decision, for example, to add the Site on the NPL through a final rule, to pursue additional cleanup approaches, or to withdraw the proposal to list the Site.

I believe that we share the common goal to protect and improve the quality of life for Alabama residents. As such, the EPA welcomes any further discussions on the proposed listing of the 35<sup>th</sup> Avenue site on the NPL or any other issues related to the environmental conditions and ongoing EPA response efforts at the Site. I have directed my staff to arrange for a meeting with your office at your earliest convenience. If you have additional questions please contact Allison Wise at (404) 562-8346.

Sincerely,

  
Heather McTeer Toney  
Regional Administrator

cc: Mathy Stanislaus, OLEM

Franklin Hill, Superfund Division

**Post-Hearing Questions for the Record  
Submitted to Mr. Stanley Meiburg  
From Chairman Jason Chaffetz**

**"Examining Employee Misconduct at EPA"  
May 18, 2016**

1. Since January 1, 2015, how many employees at EPA were issued a notice of removal at EPA?

**RESPONSE: 21**

- a) Of these employees, how many retired before being terminated?

**RESPONSE: 3**

- b) Of these employees, how many were terminated?

**RESPONSE: 14**

2. Of the employees issued a notice of removal since January 1, 2015, how many received bonuses?

**RESPONSE: 1**

- a) What was the total amount spent on these bonuses?

**RESPONSE: \$300**

3. In your testimony to the Committee, you stated that you have been assured by counsel that your service as the Acting Deputy Administrator at EPA is lawful. Could you please list the names of those counsels who provided this advice?

**RESPONSE: Avi Garbow, General Counsel at EPA, has assured the agency that Stanley Meiburg's service as Acting Deputy Administrator and Senior Advisor to the Administrator is lawful.**